

Tuesday, 20 October 2020

(10.07 am)

LADY SMITH: Good morning and welcome to those of who you I haven't seen for quite a while, it is good to see these faces in the hearing room again.

As you know, we have now completed the evidence in our child migration case study and today we move to closing submissions, and I think you all know what order you are running in, in the usual way.

I should just confirm at this stage my plan is to take everybody up to and including the Chief Constable of Police Scotland and then have what will be a belated coffee break, I am afraid, but that will also enable us to clean the room again so that it is ready for the next group of representatives that will be coming in, so bear with me about that. I hope that is all right.

Very well, Mr MacAulay, if you are ready, let me turn to you.

Closing submissions by MR MACAULAY

MR MACAULAY: Good morning, my Lady. And as your Ladyship has just said, we have now reached the stage of the closing submissions. I will present my submissions now, and I understand there are to be 16 submissions on behalf of those with leave to appear.

My Lady, the issues that I intend to highlight will

1 include summarising some of the evidence given by  
2 applicants without looking at the detail of it, the  
3 legal framework for migration of children with  
4 particular reference to what has been said by  
5 Professor Norrie. The rationales for the migration of  
6 children are also issues that I propose to touch upon.

7 I also intend to consider separately juvenile  
8 migration and child migration and look at issues such as  
9 selection, consent, approval of institutions and  
10 monitoring generally. Furthermore, the role of the  
11 state in child migration needs to be considered. And  
12 can I say, when I talk about the state I include the  
13 Scottish Home Office as the Scottish arm of the  
14 UK Government.

15 Most of these issues will involve looking at the  
16 expert evidence provided by Professors Harper,  
17 Constantine and Lynch, and, my Lady, can I just say that  
18 because of the extent and weight of the expert evidence  
19 on migration generally it will only be possible to  
20 scratch the surface of that evidence in these  
21 submissions.

22 LADY SMITH: Of course, yes.

23 MR MACAULAY: What I will try and do in addressing that  
24 evidence is in the main to focus on some of their  
25 conclusions with a particular eye on the Scottish

1 position.

2 My Lady, at the outset, before launching into the  
3 submissions in any detail, it is worth recognising the  
4 role that Margaret Humphreys and the Child Migrants  
5 Trust have played in raising awareness of child  
6 migration programmes, and that has been since 1987, and  
7 also the role the CMT has played in helping child  
8 migrants through counselling and reconnecting where  
9 possible with families and also in relation to redress.  
10 As Ms Humphreys explained in evidence, that is an  
11 ongoing process.

12 In Australia, Tuart Place in Fremantle has played  
13 a similarly important role, and it is worth pointing  
14 out, my Lady, that both organisations have facilitated  
15 contacting applicants to this Inquiry and indeed played  
16 significant roles in the evidence-gathering visits made  
17 by the Inquiry team to Australia.

18 Can I make these background observations. To date,  
19 a total of 39 applicants have approached the Inquiry and  
20 have given evidence either at a live hearing by  
21 video link or having statements read in, and some family  
22 members have also given evidence. That evidence spanned  
23 a period of 16 days.

24 The main Scottish institutions with applicants who  
25 gave evidence who migrated were the Sisters of Nazareth

1 with 21 applicants having given evidence; four  
2 applicants who gave evidence had been migrated from each  
3 of Quarriers and the Good Shepherd Sisters at Colinton.  
4 From those sent by the Sisters of Nazareth, five  
5 applicants were sent to Camberwell, and I will come and  
6 look at Camberwell shortly, and one to Geraldton. Of  
7 the Good Shepherd applicants, three were sent to  
8 St Joseph's Subiaco and one to St Vincent de Paul  
9 Orphanage in Goodwood. And the Quarriers' former  
10 migrants who gave evidence were sent to Dhurringile.  
11 All but two of the male applicants migrated by the  
12 Sisters of Nazareth were sent to one of  
13 the Christian Brothers institutions in Western  
14 Australia, one of the two eventually went to the  
15 Christian Brothers at Tardun, and two of the applicants  
16 who have given evidence were sent to Fairbridge in  
17 British Columbia.

18 My Lady, it is worth pointing out, and it is  
19 an obvious point, that the number of applicants who have  
20 given evidence are but a small minority of the number  
21 migrated but they are able to provide evidence on  
22 matters such as selection, and the environments they  
23 were subjected to, and the general impact on migration  
24 that will no doubt reflect the experiences of many.

25 LADY SMITH: It has been common in our case studies,

1 Mr MacAulay, for individual applicants to be able to  
2 give evidence that actually goes beyond their own  
3 personal experiences but have clear recollections of  
4 what it was like for other children as well.

5 MR MACAULAY: Indeed so. One point that can be made in this  
6 case study is that although many former child migrants  
7 have now since died, nevertheless a significant number  
8 of those who have died have provided accounts of their  
9 experiences that are available to the Inquiry.

10 So far as sending organisations are concerned, we  
11 heard evidence from nine organisations involved in the  
12 migration of children whose care originated in Scotland.  
13 Some of those organisations had care in Scotland of the  
14 child migrated and others not. Some organisations had  
15 a direct involvement in migration while the involvement  
16 of others was more indirect. Some were involved to  
17 a greater and others to a lesser extent. Some were  
18 enthusiastic drivers of child migration while others  
19 responded to recruitment requests made by colonisation  
20 schemes or other organisations. But all were  
21 instrumental in migrating children in care from Scotland  
22 mainly to Canada, also to Australia, and to a lesser  
23 extent New Zealand and to some other countries such as  
24 Kenya.

25 I do want to touch at this point, my Lady, on the

1           role of the Catholic Church in Scotland in migration to  
2           Australia. The Catholic Church in Scotland -- by that  
3           I mean essentially the Catholic Hierarchy -- was not  
4           a direct sending organisation but it did facilitate  
5           migration, and Andrew Nicol, who gave evidence on the  
6           analysis he carried out, agreed that from the material  
7           he found, the Scottish Catholic Hierarchy participated  
8           in a full way in the child migration scheme for Catholic  
9           children in Scotland, and at least 200 children aged  
10          between 5 and 14 were migrated to Australia from  
11          Scotland and Northern Ireland from 1946 to 1950.

12                 Your Ladyship has heard the evidence of Father  
13          Patrick Quille, who was appointed by the Scottish  
14          Hierarchy as secretary for the Catholic Council for  
15          British Overseas Settlement for Scotland and  
16          Northern Ireland, and was the hierarchy's representative  
17          in relation to child migration with an office in  
18          Edinburgh. Further, we heard that Brother Conlon,  
19          representing the Christian Brothers in particular,  
20          received letters from Archbishop Campbell of Glasgow  
21          giving him authority from the Scottish Hierarchy to  
22          visit homes in their dioceses, and it is clear that the  
23          Hierarchy supported child migration because it wanted  
24          Catholic child migrants to live in Catholic institutions  
25          in Australia.

1           LADY SMITH:  Indeed.

2           MR MACAULAY:  As I have pointed out, the principal players,  
3                        apart from Father Quille and Brother Conlon, were also  
4                        Father Nicol and Father Stinson.

5                        It does appear to be the case that children were  
6                        recruited directly from the Sisters of Nazareth in  
7                        particular, even although it was the case that in  
8                        England the Catholic Church Welfare Council had insisted  
9                        there had to be diocesan involvement, can I say  
10                       an instruction that seemed to be largely ignored by  
11                       Conlon and Stinson.

12          LADY SMITH:  Mr MacAulay, just thinking of Father Quille,  
13                        I was interested to note that about this time, I think  
14                        it is about 1947, we have documentary evidence from the  
15                        Christian Brothers case study that Father Quille was  
16                        involved in the circumstances whereby  
17                        Major Crichton-Stuart donated Falkland House to the  
18                        Christian Brothers for the establishment of St Ninian's,  
19                        the plan being to shift children from the Sisters of  
20                        Nazareth into the new St Ninian's, which of course would  
21                        have opened up space in Sisters of Nazareth.

22                        Interestingly, of course, there was no migration  
23                        from St Ninian's, but we know there was a lot of  
24                        migration through the Sisters of Nazareth and  
25                        Father Quille seems to have been a key player in all

1           this moving of children.

2           MR MACAULAY: It does look slightly odd that no children  
3           were migrated from St Ninian's by the Christian Brothers  
4           because they had more establishments in Australia that  
5           could have been used.

6           I will go on shortly to look at the case of Jack,  
7           which also shows that there was direct recruitment of  
8           children, and certainly Jack is a case in point, by the  
9           Catholic Church.

10          There has been evidence of the confidential meeting  
11          that took place involving Father Quille, Brother Conlon  
12          and Lady Margaret Kerr in July 1946, where plans for the  
13          migration of children to Australia were discussed, and  
14          clearly there were some sectarian overtones involved in  
15          that discussion.

16          Although the Catholic Council for British Overseas  
17          Settlement for Scotland and Northern Ireland appears to  
18          have been the formal body under whose auspices Scottish  
19          Catholic child migrants were sent, Professor Lynch has  
20          pointed out there is considerable inconsistency in the  
21          names used for the sponsoring organisations on the  
22          children's LEM3 forms. For example, Father Quille  
23          appears to have signed on behalf of the child Catholic  
24          Welfare Council which had no jurisdiction in Scotland.

25          My Lady, can I just make some observations about the



1 evidence that your Ladyship heard from applicants.  
2 Broadly it can be said that the applicants who gave  
3 evidence to this Inquiry, whether directly by oral  
4 testimony or in writing, provided moving evidence of  
5 their experiences as child migrants, and for some the  
6 effect was profound.

7 A significant issue for many was the loss of  
8 personal identity. For example, being told that they  
9 were orphans when that was untrue. Separation from  
10 siblings at the time contributed to that sense of loss,  
11 and the discovery later that many did have families and  
12 their descriptions of the subsequent reunion that took  
13 place do highlight how these child migrant programmes  
14 were truly misguided.

15 Looking at particular evidence. Frank, who had been  
16 with the Sisters of Nazareth in Aberdeen, at the age of  
17 nine was sent to St John Bosco in Hobart and then to  
18 Tardun in 1955, and at Tardun he was targeted by several  
19 serial sex abusers, he summed the position up in this  
20 way:

21 "The Sisters of Nazareth stripped me of my identity  
22 and family. Losing the chance to know my mother, having  
23 no family identity and being alone was every bit as  
24 damaging as the sexual abuse I suffered at the hands of  
25 the Christian Brothers."

1 Bert McGregor at the age of five was sent to  
2 St Joseph's Subiaco, and then he was sent to Castledare  
3 and Clontarf where he was sexually abused again in the  
4 care of the Christian Brothers. He described child  
5 migration as "the scheme" and he went on to say:

6 "The scheme to bring us out was a great sin. The  
7 scheme was immoral, it was wrong."

8 Johnno, who was at Castledare and Clontarf between  
9 1950 and 1959, spoke for many when he said:

10 "We all left those institutions with a lot of  
11 scars."

12 And Jack, who was migrated in 1950, was migrated  
13 with his brother because his father was told by "the  
14 Hierarchy", and Jack thought that was a bishop, along  
15 with an emigration officer, that Australia would provide  
16 a better life. He described the situation as one where  
17 they were "sent away like prisoners of war" and that his  
18 father was tricked into allowing him to leave. As  
19 your Ladyship will recollect, the father was not able to  
20 follow as had been the intention.

21 Jack described Bindoon as "half finished" and "worse  
22 than a prison camp". His experience at Bindoon of abuse  
23 and being forced to provide cheap labour, and the  
24 consequential lack of education, "ruined" his life, and  
25 Jack offered this powerful insight on impact:

1            "You don't forget cruelty, you don't forget  
2 kindness."

3            Hugh McGowan, who was sent to Dhurringile in 1961,  
4 knew of three Scottish boys who were there with him who  
5 committed suicide because of the impact and he said that  
6 was a course of action he himself would have adopted had  
7 it not been for changes in his personal life; he was one  
8 of many who discovered later in life that he had family  
9 members in Scotland.

10           Many child migrants experienced a catalogue of  
11 sexual abuse, physical abuse, deprivation, inadequate  
12 education, and various forms of emotional abuse. They  
13 also witnessed other children being abused.  
14 Professor Lynch has provided detailed analysis of the  
15 sexual abuse perpetrated by Christian Brothers at their  
16 Australian institutions and he has concluded that there  
17 was an established sex abuse ring in which many Brothers  
18 participated. Other inquiries have concluded that  
19 children were abused in these institutions.

20           Frederick Smith, who gave evidence to this Inquiry  
21 and attended all four Christian Brothers institutions,  
22 has provided a harrowing account of the sexual abuse he  
23 suffered at the hands of several Brothers, and it is  
24 rather telling that Brothers who feature in evidence in  
25 this Inquiry as abusers have also been identified as

1 abusers by other inquiries.

2 It should be mentioned that the sexual abuse of  
3 children was not confined to the Christian Brothers.  
4 Christopher Booth, who left Nazareth House Aberdeen at  
5 the age of 11, was at St John Bosco Boys Town, which is  
6 managed by the Salesians, and there he was sexually  
7 abused by the priest in charge and then by that priest's  
8 successor.

9 One aspect of the neglect experienced by many  
10 applicants was the poor level of education provided to  
11 them, a failure that had lifelong consequences for some.  
12 For example, the case of Mari-Anne, who was with the  
13 Good Shepherds in Colinton and having a happy existence  
14 there before she was migrated, she had been a good  
15 scholar before migrating to St Joseph's Subiaco  
16 in [REDACTED] 1947 aged 14. She was made to work in the  
17 kitchen there and deprived of any schooling, and she  
18 said that the lack of education had a negative impact on  
19 the rest of her life.

20 Lies about family backgrounds and separation from  
21 family members were issues that many applicants  
22 highlighted as harmful to their mental well-being, and  
23 the type of belittling that occurred when they were  
24 there is captured in phrases like "My mother didn't want  
25 me", "We were just garbage". And at Camberwell, Alice,

1           who at the age of 9 was sent from the Sisters of  
2           Nazareth Aberdeen, and was there from 1954 to 1960, said  
3           that nuns often said "You were sent here because you  
4           weren't wanted".

5           Professor Constantine has devoted chapters 20 to 33  
6           of the main report to setting out the material he has  
7           uncovered on abuse, and sexual abuse in particular, at  
8           many of the institutions to which children were  
9           migrated, and he has drawn upon the available  
10          literature, statements and affidavits to other inquiries  
11          or investigations and also statements and other  
12          materials produced or recovered by this Inquiry, and  
13          there is a large amount of material analysed by the  
14          Professor.

15          Can I just touch upon the issue of standards of the  
16          day. Professor Constantine did address this issue, and  
17          in particular the context in which child migration  
18          programmes operated. Ultimately that will be an issue  
19          that your Ladyship will have to consider, and in  
20          particular that the historical context should not be  
21          blinded by hindsight. But in addressing that issue,  
22          your Ladyship will look at the steps taken by the state  
23          to protect children from abuse even in the 19th century  
24          and that reports like the Doyle Report, 1874, recognised  
25          the deficiencies inherent in child migration.

1 LADY SMITH: Doyle is a remarkable piece of work for its era  
2 in its detail, the travels that man did. He spoke to  
3 children, what a novel thing to do in 1875. And he  
4 produced a very thoughtful and quite wise analysis of  
5 where they had got to and how they needed to change.

6 MR MACAULAY: He picked up the points that I think we see  
7 keep cropping up many, many years later.

8 LADY SMITH: Yes, they were all there.

9 MR MACAULAY: Yes.

10 In the 1940s and 50s the Clyde and Curtis Reports,  
11 and the Women's Group on Public Welfare Report on child  
12 migration in 1951 that followed a study that spanned the  
13 period 1948 to 1950, are also just some sources that can  
14 provide some guidance on this issue of the standards of  
15 the day. For example, Women's Group recognised that the  
16 main consideration in selection of a child for  
17 migration:

18 "... is not only whether the child is suited for  
19 emigration, but whether emigration is best suited for  
20 his particular needs."

21 It is perhaps worth pointing out that the note made  
22 by Miss Maxwell in the Home Office file looked at during  
23 Mark Davies' evidence is quite telling:

24 "The Home Office first approach to the question of  
25 emigration differs from that of the Commonwealth

1 Relations Office. We tend to discourage in favour of  
2 boarding out or more family care in this country while  
3 they encourage without giving much attention to the  
4 individual children involved."

5 It is at least worth observing now, in this whole  
6 context of what were the standards of the day, that the  
7 UK Government has publicly apologised for child  
8 migration and has accepted that it was a misguided  
9 practice.

10 Can I just touch briefly on some legal issues that  
11 have been identified in particular by Professor Norrie,  
12 and a useful starting point is what he says in  
13 appendix 1 of his report, of relevance also is what he  
14 said in oral evidence on Day 124 and I will look at that  
15 in a moment. But just looking at some statutory  
16 background, the first statutory provision that  
17 explicitly granted a power to arrange for a child's  
18 emigration to those other than parents was the  
19 Reformatory and Industrial Schools Act 1891, and that  
20 was the Act that granted to managers of certified  
21 reformatory and industrial schools the power in relation  
22 to "any youthful offender or child who conducts himself  
23 well" and with his consent to "dispose of him in any  
24 trade, calling or service or by emigration".

25 The emigration option could only be invoked with the

1 consent of the Secretary of State although the section  
2 is silent on what factors could have a bearing on that  
3 decision, and Professor Norrie has looked for  
4 Parliamentary debates on the 1891 Act on this reference  
5 to emigration which seems to have been added to the  
6 provision and confirmed that there was none.

7 Subsequent legislation extended the power to  
8 emigrate children to "fit persons", again with the  
9 Secretary of State's consent being required, on the  
10 basis that emigration would benefit the child. But it  
11 was the Children Act 1948 in Section 17 that gave local  
12 authorities power to arrange for the emigration of  
13 children in their care, but now there was an even  
14 greater focus on the child's welfare and the  
15 Secretary of State had "to be satisfied" that emigration  
16 would benefit the child and that suitable arrangements  
17 have been or will be made for the child's reception and  
18 welfare in the country where he is going.

19 Section 33 of that Act gave the Secretary of State  
20 the power to make regulations as to how voluntary  
21 organisations were to operate, including providing the  
22 Secretary of State with information that could enable  
23 him to be satisfied that suitable arrangements have been  
24 or will be made for the children's reception and welfare  
25 in the country to which they are going. That tends to



1 mirror what was set out in Section 17.

2 Just by way of looking at how this all ended, the  
3 various legislative provisions so far as Scotland was  
4 concerned were repealed by the Social Work (Scotland)  
5 Act 1968 and replaced by section 23 of that Act which  
6 did stipulate that a voluntary organisation needed to  
7 obtain the consent of the Secretary of State to  
8 emigration. There were regulations made in 1982 but  
9 these regulations were in fact made under the Child Care  
10 Act 1980, an Act that in the main did not apply to  
11 Scotland. These regulations did not apply to Scotland.

12 The state, however, continued to have the power to  
13 arrange, authorise or regulate arrangements for the  
14 emigration of children until 1 April 1997 when Schedule  
15 5 of the Children (Scotland) Act 1995, repealing  
16 section 23 of the 1968 Act, came into force. Therefore  
17 there did exist state recognition of the power to  
18 migrate for over one hundred years even though migration  
19 essentially ceased in 1970.

20 LADY SMITH: We haven't uncovered any evidence of anybody  
21 saying from let's say the late 1970s onwards, when all  
22 this work on regulations was coming to fruition, that it  
23 had stopped, that children weren't being migrated  
24 anymore.

25 MR MACAULAY: No.

1 LADY SMITH: It's strange.

2 MR MACAULAY: It seemed to run into the sand in a way.

3 LADY SMITH: Yes.

4 MR MACAULAY: There is the comment in the 1970 report that  
5 I think was it six or eight children had been migrated  
6 that year but I think that was the last --

7 LADY SMITH: That was the last of it.

8 MR MACAULAY: That was the last of it.

9 LADY SMITH: It was just an ongoing project that was  
10 eventually finished without anybody asking whether they  
11 actually should be doing this at all anymore, yes.

12 MR MACAULAY: And indeed, as I will say towards the end of  
13 my submissions, it seems to have been -- the whole issue  
14 of migration seems to have been lost, and it was only  
15 when in the 1980s Margaret Humphreys in particular  
16 raised the profile that there was more public awareness  
17 of the process.

18 As I mentioned a few moments ago, there are some  
19 legal issues that arise out of child migration from  
20 a Scottish perspective that have been identified by  
21 Professor Norrie, and as he put it on Day 124:

22 "The bottom line is you can't just take somebody  
23 else's child and send them away permanently to another  
24 country. You just can't do that."

25 And at the heart of his argument is the

1 non-delegability of the patria potestas for children who  
2 had parents and also the consent of children and  
3 capacity. These are issues your Ladyship no doubt may  
4 wish to consider and adjudicate upon and no doubt the  
5 submissions that have been made on these issues will be  
6 helpful to your Ladyship in that task.

7 Touching briefly on the history of child migration.  
8 The practice of juvenile and child migration has a long  
9 history and, as Professor Constantine said, it became  
10 well-established from the 1860s, and Quarrier took his  
11 first band of children to Belleville on [REDACTED] 1872 and  
12 that was the establishment run by Annie Macpherson.

13 A general estimate of the number of children  
14 migrated from the United Kingdom is in the region of  
15 100,000, with perhaps 90,000 being sent to Canada and  
16 around 7,000 to Australia with smaller numbers to other  
17 countries like New Zealand and Southern Rhodesia.

18 So far as the rationales behind migration schemes  
19 are concerned, for juvenile migration the initial  
20 emphasis was on punishment, but that emphasis shifted  
21 from punishment to opportunity, a rationale that was  
22 driven by philanthropic ideals, and it was felt that  
23 this kind of migration would benefit these children by  
24 them being relocated in the dominions where they would  
25 be trained and find employment. And as

1 Professor Constantine said, the philanthropic sending  
2 agencies had "good intentions", with highly motivated  
3 founders such as Quarrier, Barnardo and Fairbridge  
4 pursuing a vision built on such intentions. However,  
5 an important influence on migration generally was the  
6 desire to ensure that the Empire was populated with  
7 "white British stock", and it may be the case that some  
8 sectarian motives may have entered into certainly the  
9 Catholic Church's approach in Scotland.

10 Looking to finance and the role of the state  
11 generally, before the enactment of the  
12 Empire Settlement Act 1922 the cost of migration  
13 generally was borne by philanthropic organisations and  
14 donations, but the Empire Settlement Act and its  
15 successors changed the landscape significantly,  
16 in effect meaning that the state became an important  
17 player in the continuing existence of the child  
18 migration programmes, an involvement that meant organs  
19 of the state, such as the Home Office, the Commonwealth  
20 Relations Office that was previously the  
21 Dominions Office, and the Scottish Home Office had  
22 important roles to play in the migration programmes.

23 Can I then touch upon and look at some aspects of  
24 juvenile migration. In the early part of the  
25 20th century juvenile migrants went mainly to Canada,

1 but just after the First World War they went to  
2 Australia and New Zealand. And focusing on Scotland,  
3 Professor Harper, in table 1 in her report, has  
4 estimated the number of juvenile migrants between 1900  
5 and 1972 to be in the region of a figure in excess of  
6 7,000, but many had previously gone to Canada,  
7 particularly in the 19th century, and calculation of the  
8 number of juvenile migrants is particularly difficult  
9 because of the changes in the school leaving age over  
10 time, and I have indicated there how the school leaving  
11 age changed from 13 in 1882 to 14 in 1883, 15 in 1947  
12 and then 16 in 1972.

13 Professor Harper in her report has identified the  
14 main participants in the juvenile migration schemes  
15 including, from a Scottish perspective, Aberlour, which  
16 was mainly to Canada. Cossar Farms, and one can see  
17 from the number that Professor Harper has allocated to  
18 Cossar Farms that they were a significant provider,  
19 1,200 according to her estimate. Quarriers, Kibble, and  
20 other major UK contributors involved in the migration of  
21 Scottish juveniles included the Dreadnought Scheme, the  
22 Salvation Army, the YMCA and also the British  
23 Immigration and Colonization Association, BICA, and the  
24 BICA may have migrated around 550 Scottish juveniles.  
25 The Church of Scotland seems to have played a relatively

1 minor role in juvenile migration.

2 In relation to how juvenile migrants were treated,  
3 Professor Harper pointed out that the migrants'  
4 correspondence that found its way into the sending  
5 organisations' magazines or annual reports was  
6 overwhelmingly positive, but even then there were  
7 occasionally at least hints of homesickness and unhappy  
8 placements. She pointed out to evidence of loneliness  
9 and unhappiness and unsuitable placements, there are  
10 letters in Aberlour that reflect that:

11 "But if I ever set foot on the soil of the old  
12 country I'll say Canada no more for me."

13 Some juvenile migrants committed suicide. One  
14 particular example identified by Professor Harper was  
15 a 15 year old Scottish boy who was migrated to Canada  
16 under the BICA scheme and who committed suicide by  
17 shooting himself after three weeks on the farm where he  
18 had been placed.

19 A useful source of information as to how migrants  
20 fared, and juvenile migrants in particular, is the book  
21 "The Quarriers Story" by Anna Magnusson and also as  
22 elaborated upon in the evidence she provided to the  
23 Inquiry. Clearly she gives accounts of migrants who  
24 experienced harsh treatment, and the accounts she  
25 obtained prompted this conclusion:

1            "It is only when you read the accounts of emigrants  
2 themselves that you get a real sense of just how  
3 overwhelmingly and potentially grim the experience was.  
4 Life in Canada could turn out to be a nightmare or it  
5 could be a fine chance for a better future."

6            Separation from siblings was acutely felt, and  
7 Anna Magnusson also described how such children were  
8 stigmatised and found it difficult to talk about their  
9 backgrounds in Athelton(?).

10           As we have already discussed, my Lady, the  
11 Doyle Report in 1874 looked at migration generally and  
12 was critical on how children were treated, and that  
13 criticism resulted in a moratorium of some twelve years  
14 before migration resumed in 1887.

15           Professor Harper has provided an analysis on how the  
16 main contributors to juvenile migration managed the  
17 process. Taking Quarriers as an example, Quarriers  
18 clearly recognised the need, when engaged in migration,  
19 to establish a receiving home in Canada and the  
20 Fairknowe home in Ontario was opened in 1888. There is  
21 evidence that Quarriers took steps to ensure that  
22 the employment of migrants was regulated by written  
23 agreements, but there is also evidence that migrants  
24 were engaged to carry out tasks that did prompt  
25 Quarriers to point out that boys were not to be sent out

1 to other employment such as highway work. And Quarriers  
2 retained a blacklist of places where children were not  
3 to be placed, the inference being that these were places  
4 where migrants had reported bad experiences, and it has  
5 to be said that a real challenge associated generally  
6 with children migrated to Canada and also to Australia  
7 were the logistical difficulties facing inspectors  
8 needing to travel long distances in difficult  
9 conditions.

10 Quarriers also had aftercare and inspection systems  
11 in place but Professor Harper does identify deficiencies  
12 in these systems. She draws attention to an interview  
13 of Claude Winters, who was the superintendent at  
14 Fairknowe, by Quarriers management that identified  
15 a laxity in having personal contact with migrants, and  
16 that homes were not visited before placement.

17 Quarriers were sensitive to the risk of reputational  
18 damage and in particular the damage that could be  
19 associated with the return of migrants to Scotland, and  
20 in that context Claude Winters was instructed that "no  
21 children should be returned to Scotland without approval  
22 being received from the superintendent at Bridge of  
23 Weir". But according to Professor Harper, a number of  
24 Quarriers migrants did return or were sent back to  
25 Scotland for a variety of reasons, including unwanted



1 pregnancies. Some migrants were deported for committing  
2 criminal offences. There was an acknowledgement by  
3 Lord Maclay, chairman of the Quarriers council of  
4 management in 1932, that insufficient care had been  
5 taken to assess the temperamental ability and character  
6 of migrants who had become "real problems to us".

7         Aberlour was also involved in the juvenile migration  
8 of children, mainly to Canada from 1900 and 1930, and  
9 then some isolated examples up to 1951. There was no  
10 evidence of written policies or procedures and departing  
11 from the Section 21 response, SallyAnn Kelly accepted in  
12 oral evidence that there was no evidence to support the  
13 declared expectation or hope that any policies and  
14 procedures were in accordance with good practice during  
15 this period. However, there is evidence that in 1928  
16 the sub-warden of Aberlour had conducted a tour in  
17 Canada in connection with the migration of Aberlour boys  
18 under the Canadian Pacific scheme with favourable  
19 responses from the former Aberlour boys who had been  
20 sent there. And there was also evidence of documents  
21 that indicated that Aberlour had responded to  
22 correspondence from former juvenile child migrants  
23 asking for information and birth certificates.

24         The Cossar Farm scheme, set up by George Cossar as a  
25 bespoke Scottish migration programme for children from

1           deprived backgrounds, was also identified by  
2           Professor Harper as having a number of problems. That  
3           scheme included the establishment of a training farm in  
4           the Paisley area and the purchase of a training farm in  
5           New Brunswick before the recruits recruited by Cossar  
6           were then placed with farmers. Professor Harper pointed  
7           to the evidence of local authorities sending juveniles  
8           in their care for training in Scotland who were  
9           subsequently migrated to Canada, and it seems to be the  
10          case that Cossar also trained juveniles who were  
11          migrants under the YMCA scheme and from Quarriers.

12                 Cossar juveniles were accused of "frequent crimes",  
13           and boys were deported for a variety of reasons,  
14           including vagrancy and criminal convictions. The  
15           management of the New Brunswick training farm was  
16           criticised at the time for the conditions of the  
17           accommodation and also for failures to visit placements  
18           in advance, failure to check references, or indeed  
19           keeping track of the boys that were placed out, and the  
20           Canadian Immigration Department's representative in New  
21           Brunswick reported that there was no doubt that boys  
22           were being exploited by employers.

23                 There was a complaint by the Canadian Government  
24           Immigration Agent in Glasgow that Cossar selected  
25           delinquents who were medically unfit and, in 1931, 20

1 boys were sent back to Glasgow. And as your Ladyship  
2 has heard, the minimum height requirements introduced in  
3 1929 led to many Cossar boys being rejected, and that  
4 change in the regulations effectively caused the demise  
5 of Cossar's emigration work.

6 The British Immigration and Colonization  
7 Association, that's the BICA scheme, seems to have been  
8 bedevilled by problems. There was contemporary  
9 criticism of that scheme in Canada by George Bogue  
10 Smart, who was the supervisor of juvenile immigration.  
11 That scheme had established a hostel for boys in  
12 Montreal as a distribution centre for placement on farms  
13 in Ontario and Quebec, and George Bogue Smart was  
14 critical of the number of boys with a prolonged  
15 residence at the hostel, the deficiencies in the  
16 selection of boys for migration, there were a large  
17 number of chronic bed wetters, and deficient placement  
18 arrangements. The suicide already mentioned was of  
19 a Scottish BICA recruit, and another boy had been placed  
20 in an environment "amidst dilapidation and filth almost  
21 indescribable". That boy died but from an unrelated  
22 illness. The BICA scheme had also been involved in the  
23 migration of boys from the Aberdeen Lads Club to Canada,  
24 and it was apparent from an investigation carried out on  
25 behalf of the club that the methods of placement and

1           aftercare were deficient.

2           Kibble, another Scottish organisation, was initially  
3           a reformatory and then became an approved school and  
4           accommodated boys who had been convicted of criminal  
5           offences. Kibble's records disclosed that 119 boys were  
6           migrated between 1899 and 1959 to Canada and Australia.  
7           Kibble's records also disclosed that migration was a  
8           recognised practice, the aim of which was to find  
9           employment overseas, and that was to be away from  
10          an environment that was considered to be a disadvantage  
11          because they would be regarded as Kibble boys.

12          According to Professor Harper, there is no evidence  
13          of any systematic identification and scrutiny of  
14          overseas placements. There is evidence from Kibble  
15          records that in some cases, Kibble did maintain  
16          an ongoing interest in the boys who were migrated. As  
17          Professor Harper explained, the organisations who  
18          migrated juveniles were convinced that it was a proper  
19          and practical way to solve a perceived imbalance between  
20          supply and demand but, as I already mentioned, it was  
21          also something that occurred within a context that was  
22          shaped by Imperial agendas and rhetoric.

23          LADY SMITH: There was also a theme of where there were  
24          problems, the problem was the children weren't good  
25          enough, and not ever looking at the children as

1 individuals and asking, well, why were they not good  
2 enough for the children in what they were doing for  
3 them?

4 MR MACAULAY: Indeed.

5 As your Ladyship heard in evidence, the Bondfield  
6 Report in 1924 criticised the use of young child  
7 migrants as in effect unpaid and underpaid child labour  
8 and the impact that had on their education, with the  
9 result that the UK and Canadian Governments ruled that  
10 children under the age of 14 would not be migrated  
11 without their parents. The exception to that ruling was  
12 Fairbridge in British Columbia and I will look at that  
13 shortly.

14 Some juvenile migrants prospered but some did not,  
15 and the accounts already referred to highlight that the  
16 life of a juvenile migrant could be harsh and lonely.  
17 Professor Harper has also expressed the view that  
18 the large institutions, such as Quarriers, generally had  
19 clear policies regarding the selection, consent,  
20 placement and aftercare of juveniles and have retained  
21 relatively good paper trails. Perhaps that can be  
22 a point made in contrast to Quarriers' practices in  
23 relation to the migration of children to Australia,  
24 which I will look at in a moment.

25 The activities of smaller organisations that did not

1 keep records or whose records no longer exist cannot be  
2 evaluated, but aftercare practices varied: pre-active in  
3 the shape of pre-placement visits, but others were  
4 reactive, responding only when problems arose from  
5 unsuitable placements, or complete neglect as in the  
6 case of the BICA migrant who was left in deplorable  
7 conditions.

8 My Lady, can I then look at child migration to  
9 Canada. Before the Second World War, Canada was the  
10 primary destination for child migrants and  
11 overwhelmingly Quarriers was the main provider, over  
12 7,000 between 1872 and 1938. Fairbridge was involved in  
13 the migration of Scottish children to British Columbia  
14 with at least 25 Scottish children being sent there.  
15 Other Scottish providers included the Whinwell home,  
16 I think Professor -- I think we have a figure of 102 --  
17 LADY SMITH: I think we eventually got to 102 with some  
18 arithmetic being redone.

19 MR MACAULAY: We did. And Mrs Blaikie's, that's the Orphan  
20 and Emigration Home in Edinburgh, about 300. Emma  
21 Stirling, the Edinburgh and Leith Children's Aid and  
22 Refuge Society, around 200.

23 I draw particular attention to the case of the  
24 Delaneys in the next section of my submission, because  
25 it is a poignant story. Your Ladyship will recollect

1           that Patricia Delaney Dishon provided some insight into  
2           her great grandfather James Delaney's first family of  
3           three children who were effectively kidnapped by  
4           Emma Stirling and taken to Canada. The children were  
5           then split up as Emma Stirling avoided efforts for them  
6           to be traced and, as your Ladyship will recollect, there  
7           was litigation in Scotland in that connection.

8           But they were eventually placed in a children's home  
9           in Cayuga in New York State in [REDACTED] 1890.  
10          Thereafter one daughter died of tuberculosis at the home  
11          after having been placed out as a servant, she was aged  
12          17. The other daughter was boarded out at 10 and fared  
13          well, I think she effectively was adopted by the family  
14          that she went to. And James' great-grandson was traced  
15          and contacted in 2018 and he was able to provide  
16          information on his grandfather's life, the family  
17          history interestingly being that he had been kidnapped  
18          by an aunt who had lost interest. And Patricia was also  
19          able to provide evidence of another female child migrant  
20          who had been on the same sailing with Emma Stirling and  
21          had been raped at the age of 16 or 17 by the farmer with  
22          whom she had been placed, resulting in an abortion,  
23          perhaps an example of how problematic such placements  
24          could be.

25          LADY SMITH: It was also very interesting to hear of the

1 distinct efforts made by the court to do what they could  
2 with what was available under Scots law to get the  
3 children back, but ultimately children were out of the  
4 jurisdiction and there were limits, and they didn't  
5 catch them when they were back in the jurisdiction  
6 because they didn't know.

7 MR MACAULAY: Yes, the courts were clearly sympathetic to  
8 James Delaney's plight.

9 Looking, my Lady, at the Fairbridge Society and its  
10 involvement in Canada, as I have just mentioned, the  
11 Scottish children were also sent overseas by the  
12 Fairbridge Society, and what I propose to do here is  
13 focus on the migration of Scottish children to the  
14 Prince of Wales Farm School in British Columbia. The  
15 Inquiry has heard evidence from three former child  
16 migrants, Roddy Mackay, Scott and Hugh Taylor.

17 They all suffered physical and emotional abuse in  
18 British Columbia, but perhaps what is also of importance  
19 here, as set out in the main expert report at chapter  
20 24, is that a duties master at the school was dismissed  
21 in 1938 after he admitted "gross and serious misconduct  
22 with boys". However, to protect reputation, the matter  
23 was not reported to the police. It then appears that  
24 his successor was also suspected of sexual misconduct  
25 and dismissed but then subsequently reappointed, but



1           thereafter he was dismissed again and this time he was  
2           tried and convicted and imprisoned.

3           The Isobel Harvey Reports in 1944 have also been  
4           considered by the experts. She suggested another duties  
5           master had a reputation for "fooling with the girls".  
6           But be that as it may, Miss Harvey was critical of the  
7           environment and the regime, and there were further  
8           incidents of sexual abuse.

9           The provincial government in British Columbia, the  
10          Canadian Government and the Fairbridge Society in London  
11          were well aware of this troubled history, and in the  
12          main expert report, Professor Constantine also points  
13          out that departments in the UK Government were aware of  
14          this history and do I propose to return to this when  
15          considering the role of government.

16          Can I then look at Australia and child migration in  
17          particular. There was some child migration to Australia  
18          before the Second World War. The 17 children sent by  
19          Quarriers to Burnside in 1939 have featured in the  
20          evidence. It may have been 1938 actually, but the great  
21          majority of children migrated to Australia were migrated  
22          post-war.

23          Professors Constantine and Lynch identify in the  
24          main report and associated appendices the importance of  
25          the Clyde and Curtis Reports on child migration even

1           though Clyde does not make any reference to migration  
2           and Curtis only in one substantive paragraph,  
3           paragraph 515 of the report, which was backed up with  
4           recommendations that:

5                     "The emigration of deprived children should be  
6           subject to the condition that the receiving government  
7           makes arrangement for their welfare and supervision  
8           comparable to those recommended this report".

9           The absence in the Clyde Report and the paucity in  
10          the Curtis Report of any detailed reference to child  
11          migration is thought may have been due to the assumption  
12          that if child migration did take place post-war it would  
13          be on a small scale. But what Clyde and Curtis foresaw  
14          was improved standards of care for children in care,  
15          including a move away from institutional care to  
16          fostering and adoption. Section 17 of the 1948 Act can  
17          therefore be seen as imposing a duty on the  
18          Secretary of State to be satisfied that the care  
19          encountered by child migrants would be equivalent to the  
20          standards of care required post-Clyde and Curtis in the  
21          UK and, as Professor Constantine explained, "the bench  
22          for the acceptable was being raised". Importantly also,  
23          Curtis and Clyde recognised the importance of regular  
24          independent inspection of residential institutions, and  
25          effective inspection systems.

1           Can I then look at some evidence of contemporary  
2 inspections and evaluations of child migration as  
3 a child practice. There are a number of contemporary  
4 sources that have been identified by Professors Lynch  
5 and Constantine, including the Miss Harrison Report, the  
6 Moss Report and the Ross Report, that is 1950, 1953 and  
7 1956 respectively, to name but three. But there was  
8 also a significant amount of material based on informed  
9 evaluation of child migration in the UK, again the  
10 Women's Group Report being a clear example.

11           Your Ladyship may recollect that there has been  
12 evidence on the letter to The Times in [REDACTED] 1948 by the  
13 British Federation of Social Workers, questioning the  
14 standards of some migration agencies on matters such as  
15 selection and education, and pressing for  
16 an intergovernmental commission of inquiry into the  
17 whole system which of course never materialised.

18           In summary, Miss Harrison's approach was seen by  
19 Professor Constantine as superficial, and she failed to  
20 identify problems that had already surfaced and were  
21 known to Commonwealth and State officials, for example  
22 labour exploitation of boys at Bindoon and poor  
23 conditions at Tardun and also at Nazareth House  
24 Geraldton. Miss Harrison did make criticisms on the  
25 quality of some children who were sent and also the

1 inadequate information that had been sent about  
2 children. These were matters that were relayed to her.  
3 It is worth pointing out she only visited 18  
4 establishments and it does seem that her report was not  
5 received with much enthusiasm by the Home Office, with  
6 one comment being that it said little "about the needs  
7 and growth of the children".

8 The Moss Report in 1953 was relatively positive but  
9 it also contained criticisms, for example, the lack of  
10 trained staff in some establishments, the inadequate  
11 sanitary provisions in some places, including  
12 Castledare, and the isolated locations of some  
13 establishments. It did approve of institutions that  
14 were subsequently criticised by the Ross fact-finding  
15 mission. It is clear, however, that the Moss Report, in  
16 its endorsement of child migration as a child welfare  
17 practice, troubled the Home Office staff who indeed  
18 distanced themselves from it. Part of the background to  
19 the setting up of the Ross fact-finding mission was  
20 a concern over the Moss Report but also the impending  
21 review of the financial arrangements under the Empire  
22 Settlement legislation.

23 The Ross mission visited 26 out of the approved  
24 institutions to which children from the UK were sent,  
25 and in particular in its confidential reports it

1 levelled serious criticisms at many of these  
2 institutions, including criticisms about their  
3 institutional character, separation of siblings, lack of  
4 trained staff, and the insufficiency of the information  
5 sent with children. And he provided a blacklist of five  
6 institutions including Dhurringile where Quarriers  
7 children were subsequently sent by the Church of  
8 Scotland, and also on the list were establishments like  
9 Bindoon and Riverview. He did recommend that the  
10 Secretary of State's consent should also be required for  
11 migration by voluntary organisations, a recommendation  
12 that, if to be implemented, would have required  
13 legislation. But the UK Government's response to the  
14 Ross Report was to redefine obligations in the funding  
15 arrangements with the sending agencies, and  
16 your Ladyship will have to consider the adequacy of that  
17 response, particularly in a context where at that time  
18 there had also been a failure to implement regulations  
19 to govern the activities of the voluntary organisations.

20 Against that background, I now propose to look at  
21 some issues that are relevant to the role of the  
22 institutions themselves, and also the state, and I first  
23 am going to look at selection and consent issues.

24 Professor Constantine devoted a lengthy chapter of  
25 the main report to this topic where he looks at the pre-

1 and post-war periods. The post-Second World War period  
2 is further considered by Professor Lynch in Appendix 4.  
3 There is also direct evidence from applicants on how  
4 they were selected for migration and what their  
5 understanding of the process was, and I propose to look  
6 at the evidence also.

7 So far as selection is concerned, there was a clear  
8 understanding by policy-makers that robust selection  
9 processes were vital to ensure that children selected  
10 were suitable for migration, and indeed The Times letter  
11 reflects that approach.

12 LADY SMITH: Yes.

13 MR MACAULAY: However, the fact there were no regulations to  
14 advance that policy with voluntary organisations meant  
15 that the onus regarding selection, as  
16 Professor Constantine pointed out, rested essentially  
17 with the sending authorities.

18 Looking at some of the Scottish institutions and  
19 dealing first with the Sisters of Nazareth, the order  
20 was unable to identify any policies relating to  
21 migration of children, and Sister Doolan said in oral  
22 evidence that she would not have expected there to have  
23 been any written policies about child migration.

24 The Sisters of Nazareth make the point that any  
25 children selected would in any event need to go through

1 the routine immigration processes, but reference has  
2 been made to an entry in the Chapter minutes in 1925  
3 that:

4 "Care must be taken in the selection of children so  
5 as to send out sensible, well-developed healthy girls  
6 who are likely to turn out well, otherwise they may not  
7 get a good name for Nazareth House and we may not be  
8 able to continue sending them."

9 That clearly smacks of a concern over reputational  
10 damage. But notwithstanding the statement in the  
11 Chapter minutes, it is evidence also that that aim  
12 simply was not adhered to, and the case of Anne being  
13 a clear example of such a failure.

14 Some reference has also been made to the March 1952  
15 circular letter addressed to Mother Superiors which  
16 begins in the second paragraph:

17 "20 girls are required at once for Nazareth House."

18 And the inference there that what was really driving  
19 this was the need for a quota system for organisational  
20 reasons. There is no indication in any case records  
21 held by the Sisters of Nazareth of Scottish children to  
22 indicate what informed selection decisions were for  
23 particular children.

24 Professor Lynch has also analysed material in  
25 relation to the selection of girls to go to

1 Nazareth House in East Camberwell in 1953 and 1954.

2 Your Ladyship will recollect the background --

3 LADY SMITH: Indeed.

4 MR MACAULAY: -- that the Australian Commonwealth Government  
5 had this ambitious plan for the immigration of 50,000  
6 so-called war orphans after the end of the Second World  
7 War and that was the impetus for the approval in 1948 of  
8 Commonwealth and State funding for the construction of  
9 a new wing at Camberwell designed to accommodate 150  
10 female child migrants.

11 The report by Father Stinson that was referred to in  
12 evidence suggested that it was likely that the 90,000  
13 that the SON had received would have to be repaid  
14 because, notwithstanding this intense recruitment  
15 campaign in the UK, very few girls had been forthcoming.  
16 In 1953, 17 girls were selected from SON houses in  
17 Scotland and sailed in 1954. There are consent forms  
18 for applicants who were in the party that were signed by  
19 the Mother Superiors and it is difficult to escape the  
20 conclusion that the selection of children destined for  
21 East Camberwell was influenced by the desire to fill the  
22 vacancies that were there.

23 Turning to Quarriers, some insight into Quarriers'  
24 selection practices is provided in a letter dated  
25 17 December 1959 that suggests that cottage parents



1 nominated the boys who were being selected at that time,  
2 and that factors such as age, medical history,  
3 educational aptitude and family ties contributed to the  
4 selection process. The Scottish Education Department's  
5 detailed inspection report in 1965 concluded that there  
6 was insufficient information on the home's file to  
7 adjudge criteria for selection of possible migrants.  
8 What can be said is that although Quarriers did employ  
9 psychologists to assist in the selection process, there  
10 is evidence that boys were migrated notwithstanding  
11 having been found to be unsuitable by the psychologists  
12 for migration.

13 The Good Shepherd Sisters cannot provide any useful  
14 information on how children were selected, but what is  
15 evident is that the selection of some children meant  
16 that they were being separated from other family  
17 members. Sister Rosemary said records were sparse and  
18 she knew of no policies relating to child migration.  
19 Some consent forms were not signed by parents and indeed  
20 Father Quille appears in some as the sponsoring  
21 organisation or as a witness.

22 It is perhaps to be noted that in 1951 the Women's  
23 Group on Public Welfare reported favourably on  
24 Barnardo's selection procedures. That included the use  
25 of outside speakers visiting homes to talk to children

1 about emigration. And there is also evidence that  
2 following upon some bad experience with its selection  
3 procedures, Fairbridge, through Charles Hambro,  
4 consulted with the Home Office and the Dominions Office  
5 in 1945 on childcare matters including selection  
6 processes.

7 Can I then, my Lady, look at the issue of consent.  
8 As I have already mentioned, Quarriers was involved in  
9 sending 17 children to Burnside in Australia, but it  
10 appears from the analysis carried out by Professor Lynch  
11 that consent was obtained on the basis of  
12 a representation that these children were going to  
13 a Fairbridge Farm and he questions whether such consent  
14 could be seen as informed consent.

15 It is also the position that the 1939 party that was  
16 sent by Quarriers to Burnside was reduced from 25 to 17  
17 because a number had reached the age of 12 before the  
18 date of departure, or would have done so before arrival,  
19 and the preferred age range for Burnside was between  
20 the ages of five and ten and certainly no older than 12.  
21 Looking at that age range, it would be difficult to  
22 accept that such young children could themselves give  
23 informed consent assuming, for present purposes, that it  
24 was legal for a child lacking capacity to do so.

25 The Quarriers consent process also appears to have

1 involved the circulation of what appears to be  
2 a standard form letter commending the virtues of  
3 migration and the added inducement that the child was  
4 "keen to go". As discussed shortly, it appears to be  
5 the case that when families were faced with what, for  
6 some, must have been an emotional dilemma, Quarriers had  
7 not carried out any checks as to the suitability of  
8 where the children were to be sent.

9 My Lady, it is the case I think as my Lady is aware,  
10 and indeed has heard in other evidence and case studies,  
11 that Quarriers for a period did operate a system whereby  
12 parents or guardians, when placing a child in the home,  
13 also agreed to the possible migration of the child, but  
14 that system had ceased before the Second World War.  
15 There is evidence that Quarriers did take steps to make  
16 contact with families in relation to migration, and  
17 certainly it is the case that Quarriers in its second  
18 Section 21 response does maintain that they did follow  
19 agreed policy and practice with respect to selection and  
20 consent, a statement that is borne out by statements in  
21 the Narrative of Facts, and my Lady no doubt will have  
22 to take these points on board.

23 So far as the Church of Scotland is concerned,  
24 CrossReach in their Section 21 response suggest that 83  
25 children were migrated to Australia between 1950 and

1 1960, and that presumably is a figure that includes the  
2 11 Quarriers children sent in 1960, but it is to be  
3 noted that a further ten children were sent in 1961 and  
4 1963 via Quarriers.

5 The Secretary of State's consent was not sought for  
6 some children migrated in the 1960s contrary to the  
7 practice established after the Ross Report, and the  
8 Church of Scotland does suggest in its response "the  
9 boy's own wish to emigrate was the starting point". But  
10 when one looks at the list of children migrated in 1950  
11 to Dhurringile, four were aged 7, four were aged eight  
12 and all but three were under 14, and certainly that  
13 raises serious questions as to how such children could  
14 agree to migration.

15 The Church of Scotland have no records showing  
16 specific policies. Ms Dickenson indicated that children  
17 would have been selected by the voluntary organisation  
18 and asked if they wanted to emigrate, but Ms Dickenson  
19 doubted this was informed consent. Parental consent was  
20 sought and consent was given by the home superintendent  
21 if a parent was not found.

22 Just to point out, my Lady, in relation to  
23 the Sisters of Nazareth in relation to consent, that an  
24 analysis by the experts of consent forms relating to the  
25 Sisters of Nazareth disclosed that the rise in the

1 number of consent forms not signed by parents coincided  
2 with Brother Conlon's recruiting drive in Scotland in  
3 1947.

4 Of the 13 children migrated by the Good Shepherd  
5 Sisters, five were under 12, and that also raises  
6 an issue on their ability to provide informed consent.

7 Can I then look at evidence that has been provided  
8 to the Inquiry by applicants on this issue of consent.  
9 There has been evidence from some applicants that they  
10 have no recollection of giving consent or at their young  
11 age they did not grasp what was involved. For example,  
12 Scott was migrated to the Fairbridge in British Columbia  
13 in [REDACTED] 1945 aged ten. Three days before his departure  
14 a letter was sent by Middlemore to his grandmother  
15 telling her that he was going to Canada. He was  
16 destined for Australia but another child who was going  
17 to Canada failed the medical and he was substituted for  
18 him, and his position was that he and his group were  
19 simply told that they were going to Canada.

20 Roderick Mackay left for Fairbridge, Canada  
21 in October 1941. He was aged nine and, rather oddly,  
22 his medical form appears to have been signed by his  
23 brother and sister who were aged 11 and 10 at the time.

24 Hugh McGowan, who was migrated from Quarriers when  
25 aged 13 in September 1961, had previously expressed

1 a willingness to go to Australia but changed his mind,  
2 but was simply told that he was going, and he went to  
3 Dhurringile where he witnessed abuse and where he  
4 himself was sexually abused.

5 Tony, who was with the Sisters of Nazareth in  
6 Aberdeen, at the age of eight described how they were  
7 all taken into the hall and asked "Who wants to go to  
8 Australia?" at which point all hands were raised, and he  
9 left for Clontarf in [REDACTED] 1947. His consent form  
10 has been signed by the Mother Superior. He did meet his  
11 mother later in life but sadly that was not a happy  
12 reunion.

13 Johnno, who was at Nazareth House Aberdeen, at aged  
14 seven was migrated in [REDACTED] 1950 to Castledare and  
15 subsequently to Clontarf and he described the selection  
16 and consent process also as one where he and a group of  
17 boys had assembled in the hall, they were addressed by  
18 a priest who described Australia as "a wonderful place",  
19 after which he and his group were asked for a show of  
20 hands as to who wanted to go, but on this occasion, as  
21 he put it, "not a hand went up". He was then told by  
22 a Sister to put his hand up and his consent form was  
23 also signed by the Mother Superior.

24 Trish who was aged ten, and her younger sister, were  
25 asked by the Mother Superior at Nazareth House

1 Kilmarnock if they would "like to go for a long holiday  
2 on a big ship", and that was the background to their  
3 migration to Nazareth House Camberwell, leaving  
4 in [REDACTED] 1954. Her consent form has also been signed by  
5 the Mother Superior, and they were in the same party as  
6 Anne who I have already mentioned. That was the group  
7 that was clearly being destined for Camberwell where  
8 there were vacancies as I discussed.

9 Alice at Nazareth House Aberdeen was simply picked  
10 to go, aged eight, and she assumed she would be  
11 returning to Aberdeen. She left to go to Nazareth House  
12 Camberwell again in the [REDACTED] 1954 party. Her consent  
13 form has also been signed by the Mother Superior. She  
14 did meet her mother later in life who told her that she  
15 did not know she had been sent to Australia, and she was  
16 also told, the mother told her she was never asked  
17 whether Alice should go to Australia.

18 Harry, who was aged seven, simply said he was too  
19 young to understand when he was told he was going to  
20 Australia, and that was at Nazareth House Aberdeen. He  
21 left in [REDACTED] 1952 and was at Castledare and Clontarf.

22 Yvonne, aged ten, who was with the Sisters of  
23 Nazareth in Cardonald, had been told that her parents  
24 were dead and that she had no brothers and sisters. She  
25 believed she and other children at the time were

1 selected because they did not receive visitors, and she  
2 left to go to Geraldton in [REDACTED] 1953. She met her  
3 family later in life, she had a mother and siblings, and  
4 her mother had been told that she had been adopted by  
5 a good Catholic family. Her consent form has also been  
6 signed by the Mother Superior.

7 Finally, just looking at Christopher Booth, he was  
8 migrated from Aberdeen in [REDACTED] 1952 aged 11, and he  
9 gave evidence that he was never asked if he wanted to go  
10 although the brutal regime at Nazareth House was one  
11 from which he wanted to escape. He too later in life  
12 met his most mother and she told him that she had not  
13 given her consent for his migration.

14 My Lady, the testimony that I have summarised and  
15 provided to this Inquiry by applicants as to the absence  
16 of informed consent has been echoed in the testimony  
17 provided to other inquiries that have considered this  
18 issue and also by information provided to the Child  
19 Migrants Trust.

20 I'm conscious of ...

21 LADY SMITH: Yes, how are we doing? WebEx will cut and then  
22 need to be reconnected when? (Pause). We will just  
23 disconnect and reconnect now. (Pause).

24 Mr MacAulay.

25 MR MACAULAY: My Lady, I now propose to move on to a chapter



1           that will look at approval, inspections and monitoring  
2           by the state and by the institutions. In this  
3           connection, Professors Constantine and Lynch have also  
4           provided a detailed analysis of inspections and  
5           monitoring practices before and after children were  
6           migrated to Canada and Australia in particular. They  
7           considered the approval and inspection systems by the  
8           state to monitor standards of care being provided for  
9           children sent overseas after 1945, and they looked  
10          separately and in detail at the different sending  
11          organisations. For present purposes, I propose to  
12          highlight some conclusions they arrived at that have  
13          a particular Scottish relevance.

14                 By way of overview, as the experts pointed out, the  
15          Clyde and Curtis Reports recognised that fragmented  
16          systems of oversight were a threat to children's  
17          well-being and that the importance of effective  
18          monitoring ought, therefore, to have been clear to those  
19          with responsibility for children in care, including  
20          local and central governments and voluntary  
21          organisations. The experts do make the point that  
22          post-war child migration by definition created  
23          an environment of fragmented oversight, divided between  
24          the State and Commonwealth Government departments in  
25          Australia, the UK High Commission in Canberra and the

1 Commonwealth Relations Office and the Home Office and  
2 the Scottish Home Department in the UK, a point that is  
3 graphically made by Professor Lynch's diagram in  
4 Appendix 2.

5 It certainly appears to be the case that  
6 the Scottish Home Department only received a limited  
7 amount of information from other UK Government  
8 departments. By way of example, the Scottish  
9 Home Department only received the Ross confidential  
10 report on Dhurringile, notwithstanding the fact that  
11 Scottish children were sent to other institutions  
12 criticised by Ross. One official in the Scottish Home  
13 Department questioned whether the situation was as bad  
14 as was being suggested because "the news would have  
15 leaked out long ago", but it could be said that had the  
16 Scottish Home Department had sight of the other  
17 confidential reports the attitude might have been  
18 different, and there is no evidence that the Scottish  
19 Home Department had sight of the blacklist.

20 As the experts have pointed out, the UK Government  
21 and the Commonwealth Government did not carry out  
22 routine inspections of institutions overseas. There  
23 were what they describe as exceptional inspections,  
24 examples being the Moss inspections in the 1950s and the  
25 Ross fact-finding mission would also be in that

1 category, and from the Scottish perspective the  
2 Miss Harrison tour in 1950. But as I have already  
3 pointed out, Miss Harrison only visited 18 institutions  
4 and Ross only 26 out of 38, and Professor Constantine  
5 was of the view that the Ross fact-finding mission could  
6 have been even more comprehensive because some  
7 institutions, Tardun and also Picton being examples,  
8 escaped scrutiny.

9 There were a number of inspections on behalf of the  
10 UK High Commission in Australia in the pre-1945 era. We  
11 have heard about Sir Ronald Cross's inspection in 1942  
12 involving Tardun, William Garnett in 1943, that was  
13 Northcote, and Castledare and Tardun. These reports all  
14 contain criticisms such as overcrowding, poor standards  
15 of equipment and accommodation, deprivation of  
16 opportunities and isolation. And Professor Lynch  
17 concluded that by 1945 the United Kingdom Government,  
18 through its UK High Commission in Canberra and the  
19 Dominions Office in London, acknowledge a wide range of  
20 failings in residential institutions in Australia.

21 LADY SMITH: We saw photographs that showed the  
22 overcrowding, didn't we?

23 MR MACAULAY: Yes, we did --

24 LADY SMITH: Or was that Bindoon? It looked as though that  
25 was maybe characteristic of what was being described at

1 Tardun.

2 MR MACAULAY: It may have been Tardun, because we heard  
3 evidence of boys sleeping on the verandas and so on.

4 LADY SMITH: Yes.

5 MR MACAULAY: In 1944 RH Wheeler, on behalf of the  
6 Commonwealth Government Department of Immigration,  
7 recommended that both the United Kingdom and  
8 Commonwealth Governments should each inspect  
9 institutions at least once a year, but this  
10 recommendation, although accepted, was never implemented  
11 primarily because of the difficulty in resourcing such  
12 a programme.

13 It was for the Home Office to grant approval for  
14 residential institutions in Australia to receive British  
15 migrants, and such decisions were meant to be informed  
16 by reports by officials representing the government of  
17 the state in which the residential institutions were  
18 based. There were reports submitted by state officials  
19 in 1947 on institutions such as Clontarf, described as  
20 being in a poor state and unfit for children; Nazareth  
21 House Geraldton, occupied by elderly residents; Bindoon,  
22 no staff or equipment to educate children. It  
23 ultimately did not result in the quota of children  
24 earmarked for these institutions being reduced.

25 The UK High Commission's request that no child

1 migrants should be sent to Nazareth House Geraldton  
2 whilst elderly residents were housed there was never  
3 adhered to, and it was approved by the Commonwealth  
4 Relations Office in 1949, indeed some 18 months after  
5 child migrants had arrived there.

6 There was also an elderly wing at Nazareth House  
7 Camberwell and there was evidence of at least one  
8 applicant of being woken up during the night and being  
9 made to deal with dead bodies.

10 LADY SMITH: That haunts her to this day. Yes.

11 MR MACAULAY: It does.

12 Dhurringile was apparently approved in 1950 to  
13 receive child migrants without any representative of the  
14 UK Government having directly inspected it and based on  
15 a report by a state official at a time when construction  
16 work on the site was underway and before staff had been  
17 appointed. And Riverview was also approved in 1952  
18 without direct inspection on the basis of reports by  
19 state officials and both Dhurringile and Riverview  
20 appeared on the Ross blacklist in 1956.

21 Can I then look now at the position of the sending  
22 institutions. In Appendix 3, Professor Lynch has  
23 provided detailed evidence of the recognition by the  
24 provincial National Council for Mental Health in  
25 a memorandum in 1945 that was submitted to the

1 UK Government's Dominions Office, setting out current  
2 thinking on childcare standards and highlighting the  
3 importance of ongoing contact between the sending  
4 organisations and the children they had sent overseas.  
5 And in short, the sending organisations were seen as  
6 retaining ongoing responsibility for the children they  
7 migrated. Subsequently, the Home Office Children's  
8 Department, in a memorandum in 1947 circulated to  
9 sending organisations, repeated the message that UK  
10 sending organisations had an ongoing responsibility for  
11 monitoring and safeguarding the welfare of the children  
12 sent overseas.

13 My Lady, I mentioned a moment ago that Quarriers  
14 sent a party of 17 children to the Burnside home in New  
15 South Wales in 1939. That home had been approved by  
16 the UK High Commission in 1936 as a place to receive  
17 child migrants, but in its second Section 21 response,  
18 Quarriers state that it has been unable to determine  
19 what efforts were made to determine the suitability of  
20 the home and that there was no information or reports  
21 after children had been migrated to indicate that there  
22 had been any follow-ups or inspections.

23 As my Lady noted earlier, children in that group  
24 that were sent, some were very young.

25 Dhurringile was the receiving home for children

1 migrated under the auspices of the Church of Scotland  
2 including some children from Quarriers in the 1960s.  
3 Vivienne Dickenson elaborated upon the Church of  
4 Scotland Section 21 response in her evidence by saying  
5 that her understanding was that there was no prior  
6 inspection of Dhurringile and the Reverend Boag letter,  
7 which we have seen on a number of occasions in evidence,  
8 was taken on trust.

9 It is the case, as Ms Dickenson pointed out, that  
10 the then Moderator did visit in 1951 and reported  
11 favourably but it is questionable whether that could be  
12 viewed as adequate monitoring. The experts had not seen  
13 any reports of inspections in Dhurringile by any British  
14 or Australian Government agency before the John Moss  
15 Report which was positive. Vivienne Dickenson suggested  
16 that the critical Ross confidential report was not  
17 shared with the Church of Scotland.

18 Turning then to the Catholic Church and the Sisters  
19 of Nazareth in particular. It is the case, as I already  
20 observed, that the Catholic Church played a significant  
21 role in the migration of children from Scotland to  
22 Australia. The Sisters of Nazareth migrated over 70  
23 children and the number might be closer to 100, mainly  
24 to SON and Christian Brothers institutions, and as the  
25 case of Jack discloses, there was also more direct

1 involvement by the Catholic Church.

2 There is evidence that reports on children were sent  
3 from Nazareth House in Australia but the SON accept they  
4 have no records to suggest that they had policies  
5 in place for the monitoring of children migrated to  
6 Australia, and it appears to be the case that they did  
7 not have a regular or a comprehensive system for  
8 monitoring the establishments to which children were  
9 sent from Scotland. There were visitations carried out  
10 but these reports do not really focus on child welfare.

11 My Lady, if I may make the point, one can understand  
12 how the Sisters of Nazareth sending children to a sister  
13 organisation may take that on trust, but one of  
14 the implications of the apparent lack of monitoring by  
15 the Sisters of Nazareth is that there were no checks on  
16 the boys sent to the Christian Brothers institutions --

17 LADY SMITH: Of course.

18 MR MACAULAY: -- where sexual abuse was rife. And as I have  
19 indicated, Professor Lynch has added to the significant  
20 amount of material available on abuse by the  
21 Christian Brothers, material contained in reports such  
22 as the Lost Innocents Report and the Australian Royal  
23 Commission study. He has also raised the question as to  
24 what extent Brother Conlon would have been aware that  
25 the Brothers were sexual abusers because of his



1 connections with Tardun and subsequently with Bindoon.

2 Jack, who I have already mentioned, gave evidence  
3 about Brother Conlon's presence at Bindoon and that  
4 Brother Conlon bedroom was along the same corridor as  
5 those of Brothers against whom allegations of abuse have  
6 been made. And as far as Jack was concerned, and he  
7 said this in evidence, Brother Conlon must have known  
8 about the sexual abuse at Bindoon as did, as he put it,  
9 the "good" Brothers who were the non-abusers.

10 The Good Shepherd Sisters have been unable to  
11 provide any evidence on whether any checks were made of  
12 the places to which children were sent or whether  
13 children were monitored after migration and there is  
14 a clear inference there was no follow-up to check on the  
15 party migrated in 1954.

16 As I already said, my Lady, it is clear at the time  
17 that the Scottish Catholic Hierarchy supported child  
18 migration, and there is no evidence that the Hierarchy  
19 made any efforts to investigate the standards of care  
20 being provided of a policy that it supported.

21 My Lady, can I just touch upon the draft Section 33  
22 regulations.

23 LADY SMITH: I suppose, just thinking about your last  
24 comment, even if somehow they felt it wasn't for them to  
25 do it directly, are you saying that their involvement

1           was such that they should have been finding out whether  
2           the sending organisations were doing as the Government  
3           expected them to do in terms of having good effective  
4           systems of post-migration monitoring?

5           MR MACAULAY: Yes, yes, indeed. They support supported and  
6           sanctioned child migration and it was incumbent -- it is  
7           arguable it was incumbent upon them to satisfy  
8           themselves that the policy was operating properly. They  
9           could do that in a number of ways. One way would be to  
10          be satisfied by the sending organisations that they were  
11          receiving information as to what was happening on the  
12          ground.

13          LADY SMITH: Indeed, yes.

14          MR MACAULAY: Moving on then to look at the draft Section 33  
15          regulations. These regulations in draft were considered  
16          by a number of organisations, including the Council of  
17          Voluntary Organisations for Child Emigration, CVOCE,  
18          a group that included the Church of Scotland Committee  
19          on Social Service, the Australian Catholic Emigration  
20          Committee and also Dr Barnardo's.

21                 The regulations provided in terms that a voluntary  
22          organisation who arranges for emigration of a child  
23          should arrange for an annual report on the welfare of  
24          the child to be sent to it, and the CVOCE agreed that  
25          sending organisations should remain well-informed about

1 children sent overseas, and that regular and  
2 comprehensive reports on the progress of each child  
3 should be sent.

4 So although the regulations were never enacted, it  
5 does appear to be the case that voluntary organisations  
6 engaged in migration were fully aware of the standards  
7 envisaged and fully understood the importance of such  
8 monitoring for children's welfare, and furthermore, as  
9 the experts explained, and your Ladyship might think  
10 this quite a telling point, that Barnardo's did  
11 implement a monitoring policy that anticipated the  
12 enactment of the regulations and continued to do so even  
13 despite the fact that the regulations were not  
14 introduced. This does support the view that voluntary  
15 organisations did have the capacity to introduce such  
16 standards of practice. No doubt the Barnardo's system  
17 of establishing homes in Australia may have helped as  
18 compared to, for example, Quarriers, but the SON also  
19 had establishments in Australia.

20 Can I, in my final section, look at the  
21 UK Government's role. Your Ladyship may consider that  
22 a number of issues that focus on the role played by the  
23 UK Government in migration may need to be addressed and  
24 these are but examples. Notwithstanding Home Office  
25 reservations, the UK Government continued to provide

1 financial support for child migration, and tensions  
2 between the Home Office, that it is evident from the  
3 files, and the Australian authorities, may have been  
4 tempered by diplomacy and that may very well have had  
5 an impact on the interests of migrated children.

6 For example, the question is could the Home Office have  
7 taken a stronger line with its Australian counterpart?

8 As already mentioned, the Home Office did accept  
9 that it had a role to inspect institutions in order that  
10 they could be approved as receiving institutions to  
11 satisfy the suitability test in Section 17 and as  
12 a precondition of funding.

13 On the face of it, it is arguable that that approval  
14 system was flawed, institutions were identified as  
15 unsuitable to receive children. For example, the  
16 Garnett Report in 1944, and subsequently by the Ross  
17 fact-finding mission that included a black list of  
18 institutions. And as I already mentioned, it does  
19 appear also that Nazareth House Geraldton had received  
20 child migrants before it was approved as a receiving  
21 institution and, notwithstanding that, it did not change  
22 the fact that it also accommodated elderly residents.  
23 And Dhurringile was approved before work on its  
24 renovation had been completed or staff appointed. These  
25 are but examples of arguable deficient oversight.

1           The failure to implement regulations meant that  
2           voluntary associations were spared the scrutiny faced by  
3           local authorities. This remained the position,  
4           notwithstanding the Ross recommendation that the  
5           Secretary of State's approval be obtained for children  
6           in the care of voluntary organisations.

7           LADY SMITH: And also in the face of the statistics showing  
8           that by far the vast majority of the children being  
9           migrated were being migrated from voluntary homes,  
10          something like 5%, it was thought, from Local Authority  
11          institutions?

12          MR MACAULAY: Local authorities played a very little role in  
13          migration.

14                 As Mark Davies explained, the Home Office did have  
15                 criteria for the selection of children but, because  
16                 there were no regulations implemented, for the great  
17                 majority of children migrated by voluntary organisations  
18                 there was no mechanism to enforce these criteria in  
19                 practice. Mr Davies has confirmed that  
20                 the UK Government fully accepts that it failed to  
21                 ensure, as the Curtis Committee had recommended, that  
22                 the arrangements and standards of care for those  
23                 children in Australia were comparable to those in this  
24                 country.

25                 The final point I would wish to make in relation

1 to the role of the government, and there may be other  
2 points that are no doubt covered in the evidence, but  
3 there is a very real question on whether the  
4 UK Government knew or certainly ought to have known that  
5 children were at risk of abuse overseas. Mention has  
6 already been made to the events in Fairbridge in  
7 British Columbia which had been ventilated in particular  
8 by Isobel Harvey, and the sexual abuse issues that arose  
9 there were well known. Marks Davies made reference to  
10 a memorandum sent to the Home Office by Dallas Paterson  
11 in January 1945, and he had been a former principal at  
12 Pinjarra, and that memorandum was generally critical of  
13 the regime and it also contained contemporaneous  
14 allegations of known sex abuse.

15 The experts have also pointed to other episodes  
16 where issues arose over sexual abuse, including  
17 involving the Barnardo's institution at Picton and at  
18 Fairbridge Farm School Molong. They say "serious sexual  
19 perversion" at Picton was reported by Barnardo's to the  
20 Home Office and appears to have prompted the closure of  
21 Picton about a year later.

22 Finally, my Lady, apologies have been made. We have  
23 heard apologies directly from Quarriers, Barnardo's, the  
24 Sisters of Nazareth, the Good Shepherd Sisters, the  
25 Church of Scotland and the Royal Over-Seas League.

1 Rosemary Keenan also offered an apology on behalf of the  
2 Catholic Children's Society Westminster, albeit there may  
3 not be much evidence that this society was directly involved  
4 in migrating children from Scotland.

5 The Scottish Bishops' Conference nominated their  
6 assistant general secretary to pass on an apology but we  
7 did not hear directly from one of their members. And  
8 similarly the Catholic Bishops' Conference of England  
9 and Wales did not put forward any of their members to  
10 give evidence but referred to an earlier apology made by  
11 Bishop Stock to the England and Wales Inquiry. Aberlour  
12 has made no apology for their involvement in child  
13 migration.

14 My Lady, can I conclude in this way: Hugh McGowan  
15 began his evidence by thanking the Inquiry for the  
16 opportunity to "set the record straight in respect of  
17 what was called child migration which was child  
18 deportation". He went on to say:

19 "I would also like to pay my respects to the 21  
20 children that went from Quarriers, I would like to pay  
21 my respects to those who took their own lives and others  
22 who have passed away for other reasons."

23 He went on to say that his journey to have the  
24 opportunity to give evidence to this Inquiry was  
25 a 50-year journey. And that sentiment perhaps echoes

1 Professor Constantine's comment at the beginning of the  
2 main report, that although for a period history may have  
3 forgotten child migration, that those that had been  
4 migrated had not forgotten.

5 And Professor Constantine's conclusion is worth  
6 repeating:

7 "It is a lamentable fact that we know more today  
8 than was known at the time about the experiences of  
9 child migrants and the legacy for life of what many had  
10 endured."

11 And his final observation is one that perhaps should  
12 be taken to heart by an Inquiry such as this:

13 "Not only has voice been given to the voiceless, and  
14 that is important, but knowledge is needed in order to  
15 learn lessons from the past."

16 My Lady, those are my submissions.

17 LADY SMITH: Mr MacAulay, thank you very much indeed.

18 Can I turn to Mr Scott for INCAS, please.

19 Closing submissions by MR SCOTT

20 MR SCOTT: Thank you, my Lady. This has been a remarkable  
21 case study for a number of reasons. It represents an  
22 illustration of the benefits of additional expert  
23 scrutiny of previously hidden or partially concealed  
24 chapters in our history, such expert study being  
25 possible because of wider records and academic study on



1 issues around migration more generally. The work for  
2 this Inquiry has also built on and indeed developed the  
3 work of other abuse inquiries.

4 Your Ladyship has commented on the great assistance  
5 she has derived from this expert help. The care and  
6 attention of the experts has been such as to reduce the  
7 need for much by way of additional comment and narrative  
8 on aspects of the big picture of child migration and  
9 will no doubt assist in the process of making findings  
10 in fact.

11 While over the last three and a half years I have  
12 adjusted to being heard mainly through questions  
13 submitted to counsel to the Inquiry, there have been  
14 moments, fairly few, usually the subject of hurried  
15 emails to the Inquiry team, when I have felt that  
16 an additional question has been needed. I confess that  
17 during this case study always questions that occurred to  
18 me and more were posed and answered mainly in the  
19 evidence of the experts.

20 As part of the legal team for a core participant, there is  
21 a responsibility to speak when necessary, but only when  
22 necessary, or called upon to answer questions. Reflecting on  
23 this additional testament to the contribution of the experts  
24 will be the greater focus of my closing submissions on some of  
25 the individual

1 testimony we have heard from survivors although, having  
2 said that, my submissions were longer than I thought  
3 they would be, my Lady.

4 Of course the backdrop to this case study, the  
5 coronavirus pandemic, has also been remarkable, with  
6 an enforced gap in public hearings which, of course, as  
7 your Ladyship pointed out in public statements  
8 in March, May, June and July, did not stop the work of  
9 the Inquiry. That work continued as before, with the  
10 public hearings only a part, albeit a very important  
11 part, of your Ladyship's work towards meeting the  
12 considerable demands of the terms of reference.

13 The continuing work was of course in investigation,  
14 research and analysis and preparation for announced case  
15 studies. INCAS, and I am sure survivors more generally,  
16 welcome the resumption of this case study in September.  
17 I know also that the next case study into the  
18 overarching response of the Scottish Government,  
19 especially post-apology in 2004, remains of great  
20 concern and interest to INCAS and its members as another  
21 theme, like child migration, which runs through  
22 different strands of the work of the Inquiry.

23 Before addressing some of the powerful testimony  
24 heard in this case study I want to mention a matter  
25 which is of concern to some members of INCAS. It is

1 a subject which came up in this case study on Day 186 in  
2 the evidence of Professor Constantine. It is the  
3 subject of those children boarded out to the Scottish  
4 Highlands and Islands. While not sent abroad to foreign  
5 countries, for many they might as well have been.  
6 Without choice, they were taken on small planes to  
7 places where often Gaelic was the first language. They  
8 were sent, not as foster children, but to work the land,  
9 in the same way as many of the children selected to go  
10 overseas. Your Ladyship indeed commented on the  
11 similarity in thinking in both processes.

12 While some of their stories may yet feature, they  
13 wanted to be mentioned here because of the similarities  
14 in their experience to the child migrants.

15 The next part of my submissions I have headed "The  
16 Sales Pitch", which I think comes from quotes from  
17 Professor Constantine:

18 "He described how the sun was always shining and it  
19 was a beautiful place to live. He said that on the farm  
20 there were all kinds of animals to look after and, when  
21 the boys weren't in school, they could do so. He made  
22 it sound like the promised land and after he finished  
23 giving such a glowing report he asked 'Who wanted to go  
24 to Australia?' My hand shot straight up."

25 This description from the read-in statement of

1 Michael on Day 171 captures the dreams and the hope of  
2 a better life in another country. For children like  
3 Michael who lived lives of hardship and abuse it must  
4 have sounded like escape and paradise combined.  
5 A similar sales pitch for Australia featured in the  
6 evidence of Johnno on Day 180.

7 The terrible lives of some of the child migrants  
8 while they were in Scotland before migration, perhaps  
9 especially those in abusive care settings, no doubt  
10 acted as an additional incentive to migration. As  
11 Hugh McGowan said on Day 176:

12 "Anything to get out of Quarriers."

13 By comparison to the sales pitch, the truth was  
14 of course different for many. On Day 171 Michael spoke  
15 of ending up at nine years of age in Bindoon Boys Town.  
16 Bindoon is another one of those names which is now  
17 perhaps permanently associated with all of the horrors  
18 of child abuse of which we have heard in other case  
19 studies: poor education, hard labour, physical beatings  
20 and sexual abuse, but with that abuse amplified by  
21 forced relocation to a strange foreign land with, just  
22 as one example, which by comparison to some of the abuse  
23 might seem trivial, skin cancer. Kath on Day 172. Just  
24 one of the additional risk that these children were  
25 exposed to.

1           These days what happened to them would be called  
2 human trafficking. Some survivors called their  
3 experience "slave labour". It was pointed out that it  
4 is wrong to call it "migration" because migrants have  
5 a right to return home, and that was Johno on Day 180.  
6 A choice not truly available to those with no identity,  
7 no papers and no real say in where they could go.

8           The catalogue of abuse suffered by those children  
9 who were migrated is all too familiar, including  
10 physical, emotional and sexual abuse, as well as many  
11 accounts of the exploitation of children and young  
12 people in what amounted to hard labour. In his  
13 concluding remarks in evidence in Day 197  
14 Professor Lynch spoke of the "extraordinary level of  
15 abuse within these institutions" and a "culture  
16 of abuse" coupled with collusion having been ruled out  
17 and the sometimes hinted at conspiracy of countless  
18 survivors across decades and continents. As is apparent  
19 from the work of this Inquiry, the connection shared by  
20 these survivors is abuse, not some massive and  
21 impossible conspiracy against institutions.

22           Of course, not all experienced abuse and have  
23 negative memories. Jok, Day 173, spoke of his positive  
24 memories of migration, spoiled only by what Quarriers  
25 had kept from him about his own family. But his

1 experience of migration itself was positive.

2 The lies. Mr MacAulay has mentioned  
3 Patricia Dishon's evidence on Day 175. That was  
4 a powerful chapter of evidence and, if I may say, the  
5 way that that fitted in along with other expert evidence  
6 with a more personal story of one family was  
7 particularly effective. Her account of the Delaney  
8 family, the Delaneys of Edinburgh, and the lies and  
9 obstructions which dogged poor Arthur Delaney after the  
10 death of his first wife in his long, challenging but  
11 ultimately and sadly fruitless quest to recover his  
12 three children running aground in dead ends in  
13 North America. It was in that evidence that we heard  
14 most compelling of the complex character, Emma Stirling,  
15 the bigoted philanthrope or the philanthropic  
16 anti-Catholic bigot, who did so much good but also some  
17 acts which would be described as wicked, not least as  
18 detailed by Patricia Dishon in regard to the Delaney  
19 family. She represents a prime example of the  
20 complexity of the good done by apparently bad people or  
21 bad done by apparently good people.

22 Lies and obstructions were offered by many other  
23 than Emma Stirling and were told to children and their  
24 families about their families, their early life and how  
25 they came to be migrated.

1           Of impacts we have heard many, including the  
2 direct-lived experience testimony. We heard of  
3 suicides, including the suicide that Mr MacAulay  
4 referred to following a two-month placement organised by  
5 the British Immigration and Colonization Association,  
6 a scheme described by Professor Harper as being  
7 seemingly designed for the benefit of Canadian farmers,  
8 rather than the children.

9           One of the biggest impacts on many, and Mr MacAulay  
10 again mentioned this, relates to identity. We heard  
11 a sense of having no identity, a read-in statement of  
12 Rose on Day 174, with one simple example given; that of  
13 having no birth certificate. Deprived of knowledge of  
14 families, some were also deprived of knowledge of family  
15 medical history which might have been needed to inform  
16 their own medical treatment at some point during their  
17 lives. Indeed, in the rush to push and the haste to  
18 pull some children were sent without even their own  
19 medical histories in apparent fear of their being  
20 rejected, with Anne and her callipers being a striking  
21 example of this.

22           Some children were told to change their name,  
23 Michaela on Day 178 spoke of that, with it sometimes  
24 even being changed just subtly; drop the [REDACTED] and lose  
25 the middle name, or being given a new date of birth,

1           thereby adding to the confusion about identity and  
2           reducing or removing the chances of ever being found by  
3           family or others if they tried to find them. And also  
4           as providing the institution in at least one example  
5           from Johnno's testimony with funds for longer than  
6           appropriate because he was given a date of birth a year  
7           younger than he was.

8           As Trish, who travelled from Melbourne to attend the  
9           Inquiry, said for the child migrants there is something  
10          missing, something missing in relation to identity,  
11          family and a sense of belonging, no longer Scottish but  
12          not quite Australian or Canadian or some other  
13          nationality, a permanent sense for some of them of being  
14          in between. Yearning in many cases to know about their  
15          families, despite what was said in a claim, at best of  
16          self-deception, by one principal of the  
17          Christian Brothers doubting that the boys themselves  
18          would every worry about their parentage. We heard of  
19          that from Professor Constantine.

20          Day 174 was a particularly moving day in this case  
21          study. Scott's description of his "week of tears" on  
22          being told of his son's discoveries about his family was  
23          especially moving. "Now knowing that I'm not the only  
24          one", and his plans to meet family in Dumbarton were  
25          heartwarming, although his son's statement on the same



1 day that, as a result of his experiences through  
2 migration at the age of three, he, his father, had no  
3 clue how to be a dad was heartrending. The son's  
4 researches had let him see that the whole process  
5 commoditised children, and that ties in with some of the  
6 expert evidence which explained the commoditisation, not  
7 only of the body, but also of the soul.

8 In terms of the authorities, we heard evidence of  
9 repeated moments of opportunity to address the problems  
10 and end or modify the practice, moments of opportunity  
11 which were not taken or not taken sufficiently or not  
12 taken permanently, and the litany of possible  
13 opportunities: Doyle, Curtis, Harvey, Clyde, Moss, Ross.  
14 While not every look at the issue or touching on the  
15 issue was wholly critical of every aspect of child  
16 migration, the thrust of some, as well as the criticisms  
17 in even relatively positive reports, seems to have gone  
18 largely unheeded in practice. Legislative opportunities  
19 were missed and the Home Office eventually seems to have  
20 abdicated responsibility to the Commonwealth Relations  
21 Office in a manner which so enraged  
22 Professor Constantine on Day 187, and should offend us  
23 all.

24 In my opening statement I mentioned some questions  
25 which were suggested by the disclosed evidence. How

1           were children selected for migration? And I referred to  
2           the suggestion from a particular statement of witnesses  
3           that were perhaps selected on the basis they were  
4           considered to be troublesome and shipped out as  
5           a result.

6           In fact there are many and varied answers to this  
7           question in addition to the one that I suggested. It  
8           was not always or even mostly for what might be  
9           considered "bad reasons". While at times there was  
10          a wish for the children to have a better life and some  
11          may have achieved that, the interests, wishes and  
12          informed consent of children and families was not always  
13          an act of consideration and often not even the subject  
14          of discussion. However inappropriate, appearance was  
15          even one consideration at times in the selection  
16          process.

17          The next question that I suggested was "What was  
18          done to seek informed consent?" Repeated mentions of  
19          children being asked about going and agreeing but  
20          thinking it was a holiday, being unaware that they  
21          wouldn't return, and of course we have heard of that.  
22          The answer, in fact, is often nothing was done to seek  
23          informed consent. Inadequate or misleading information,  
24          with foreign destinations sold as if by travel agents or  
25          tourist boards, glossy pictures, brochures and films

1 filled with smiling faces and beautiful views. No  
2 brochures or films of course of the harsh reality that  
3 awaited many.

4 Also in the question of consent "What, if anything,  
5 was done to secure informed consent from parents?"  
6 Though there may be examples of genuine consent, it  
7 seems apparent that in many cases it was far from fully  
8 informed and, therefore, offered no proper basis for  
9 what followed. Again often nothing seems to have been  
10 done. Similarly misleading propaganda and unfulfilled  
11 claims of being reunited with their children when they  
12 were able. The poor records as regards consent may tell  
13 their own story of the priority afforded to the question  
14 of consent.

15 The question then in relation to monitoring and the  
16 role of government. I acknowledge that, while some of  
17 the distances involved would have made direct oversight  
18 or inspection difficult or indeed impossible, inspection  
19 and monitoring seems to have been largely inadequate  
20 with too much room for the inspected to be allowed to  
21 inspect and report on themselves, or to report back to  
22 those who were ostensibly looking at the matter. As  
23 acknowledged by the UK Government, the ultimate  
24 responsibility for child migration, whether because of  
25 direct involvement, permission or neglect, rests with

1           them.

2           I posed a question about the prevention of letters  
3           and gifts being received by children and if that was  
4           a policy. As we have heard in other case studies, we  
5           may not know if there was a deliberate policy but  
6           repeated tales of the practice, another theme from these  
7           other case studies, suggest something more than  
8           coincidence.

9           LADY SMITH: In similar vein, it seems to have been  
10          a practice, maybe a policy, of sending back to the UK  
11          little suitcases with the children's belongings in them.

12         MR SCOTT: Again, a heart-breaking picture, and it may have  
13         been part of -- again possibly with the best of  
14         intentions -- not to confuse a child whose identity had  
15         already been compromised by letting them receive letters  
16         which may have made it more difficult for them to stay  
17         where they were. But, nonetheless, another part of the  
18         identity for which they were given no opportunity to  
19         take part.

20         LADY SMITH: Yes. It's the tangled web that results if you  
21         start with a lie.

22         MR SCOTT: Indeed, my Lady. The last question I suggested  
23         was one that pervades the work of the Inquiry and that  
24         is about what lessons can be learned about the same  
25         abuse being perpetrated across religious orders,

1 organisations, across countries, across decades, even  
2 centuries. Beyond repeating that coincidence seems  
3 inadequate to explain it, that is probably a question  
4 for the end of the work of the Inquiry overall.

5         Johno posed the question "why?" about child  
6 migration and wondered if part of the reason was because  
7 it saved money to send children aboard who otherwise  
8 might be a burden on the state here. Through the many  
9 years the fundamental question which should have been  
10 asked was often ignored or overlooked, and this is the  
11 question articulated by your Ladyship. It came up at  
12 various points during the case study but articulated by  
13 your Ladyship during Professor Constantine's evidence on  
14 Day 187:

15         "Will it be better for that child to go abroad than  
16 to stay here?"

17         That question, a simple question, ought to have been  
18 at the heart of every single decision about migration.  
19 But clearly wasn't.

20         A final question occurred to me, my Lady, coming  
21 from the evidence of Andrew Nicol, the keeper of the  
22 Scottish Catholic archive, on Day 196, and he was asked  
23 about an apparent expression of annoyance that he  
24 mentioned in his statement about Archbishop Conti about  
25 the report on child migration he had prepared at the

1 request of Cardinal O'Brien. Archbishop Conti has  
2 already obviously given evidence, but if he were to come  
3 back an obvious question would be:

4 "If this account is accurate, why on earth would he  
5 be unhappy with Mr Nicol in preparing that report, which  
6 he was asked to prepare by the Cardinal?"

7 Patria potestas, my Lady, was certainly a hark back  
8 to my days of Roman law in the 1980s at  
9 Glasgow University, and I confess that I should probably  
10 have left it with what Professor Norrie said. I did  
11 offer some suggestions there but, perhaps in view of the  
12 time, I can simply say that I don't see that there is  
13 very much comfort for the sending organisations in any  
14 aspect of the law in Scotland at the time.

15 On that basis, my Lady, I will skip over, including  
16 the quote from Lord President Cooper, and move on to --  
17 it is I think worth saying on the question of consent,  
18 turning to paragraph 38 of my submissions, it is worth  
19 noting here that in 80% of the 1,149 cases studied by  
20 the Catholic Child Welfare Council it could not be said  
21 whether there was parental consent. This was Dr White  
22 on Day 182, and on Day 173 he spoke of a signature  
23 consenting to her brother Tom's migration to Australia  
24 which bore to be her mother's but was not. The need to  
25 demonstrate consent is apparently understood but simply

1           forged. Some children thought that they were just going  
2           on holiday; various examples. Any purported consent in  
3           such a situation would, of course, be vitiated by the  
4           deception as to a fundamental aspect of the change.  
5           These aspects, together with the lack of records,  
6           suggest that the question of consent was not given the  
7           central place it required and may support the notion of  
8           the commoditisation of children.

9           It is strange in 2020 to look at the law relating to  
10          children in the 19th and even well into the  
11          20th century, especially as it seems so out of keeping  
12          with the law now and especially the law as it moves  
13          quickly towards the incorporation of the United Nations  
14          Convention on the Rights of the Child, with the relevant  
15          bill having been introduced at the Scottish Parliament  
16          last month. INCAS of course welcomes the move from  
17          children as commodities or as their father's things to  
18          children as rights bearers, with their best interests  
19          a primary consideration in all actions concerning  
20          children, whether undertaken by public or private social  
21          welfare institutions, courts of law, administrative  
22          authorities or legislative bodies.

23          I turn then to some issues of fact where  
24          your Ladyship may make some findings.

25          There has been evidence of institutional abuse or

1 a culture of abuse which is supported by a number of  
2 witnesses. Once more this features abuse described by  
3 individuals of different backgrounds, ages, residents at  
4 different times and who were unknown to each other and,  
5 indeed, unknowable to each other. The abuse was carried  
6 out by several abusers, not merely one or two  
7 individuals, and took place over many years.

8 Adopting headings that I have used before, I will  
9 deal briefly with these. General atmosphere. The  
10 context for many, the atmosphere of their homes, was  
11 summed up in the damning remark "You were sent here  
12 because your mothers didn't want you." Jack, Day 176,  
13 echoed by Johnno:

14 "Your country didn't want you, your family didn't  
15 want you, this is your last resort. Toe the line or  
16 else."

17 Education, a striking aspect of the case study.  
18 Michaela on Day 178 "The worst thing about being in care  
19 is the lack of education." Frederick Wooltorton Smith  
20 on Day 179 "Schooling was pretty well non-existent", and  
21 that witness described how the lack of education  
22 followed him through his life limiting, amongst other  
23 things, his career in the Army. Striking, however,  
24 given some of the abuse that the children suffered,  
25 physical, sexual or emotional abuse, that the loss of



1 an education was one of the most important things for  
2 some of them.

3 In terms of control, discipline and punishment we  
4 heard evidence of arbitrary and punitive violence  
5 involving assaults and beatings of all sorts, with and  
6 without implements, including to injury. We heard of  
7 behaviour by Brothers so outrageous that even oppressed  
8 children rebelled, with the Castledare riot following  
9 the shooting of the boys' pet dogs by Brother MXC,  
10 and that was on Day 179 as well. As with the other  
11 rebellion we heard about in a previous case study, it  
12 was short-lived and resulted in punishment and the  
13 transfer of supposed ring leaders.

14 Bed-wetting, a sad constant throughout the case  
15 studies; mention of the "wetty-bed dorm", a read-in  
16 statement of Walter Kerkhof on Day 172 was a reminder  
17 that some of the humiliations experienced in Scotland  
18 didn't end with migration. Sexual abuse. There was  
19 clearly evidence of all manner of -- including serious  
20 sexual abuse, and again of abusers who didn't really  
21 seem to feel the need to be terribly discreet about some  
22 of what they were doing, including grooming.

23 In terms of awareness of and response to abuse we  
24 heard from Jack on Day 176 of Brothers being transferred  
25 if they spoke out, and Johno spoke of the other type of

1 transfer in that situation, which was moving on the  
2 Brother who had behaved in a way that he shouldn't.

3 As in Scotland, abusers were able to rely on the  
4 general respect for the church and Brothers and priests  
5 and other religious. As before, this case study  
6 highlights the dangers of excessive and unjustified  
7 reliance on trust and respect for any church or  
8 religious orders or other organisations. It may be that  
9 those with innocent minds cannot conceive of the  
10 possibility of abuse by their brethren or their  
11 predecessors. Such assumptions and associated trust  
12 have been part of the problem with child abuse in  
13 Scotland and elsewhere, and have been ruthlessly  
14 exploited by those without innocent intentions. Similar  
15 assumptions and trust have even featured in some of the  
16 Section 21 responses, with institutions ready to at  
17 least start by always believing the best in their  
18 orders.

19 In thankfully now amended Section 21 responses it  
20 appears that organisations had been prepared to give  
21 themselves the benefit of the doubt if there was a gap  
22 in records, suggesting that the absence of evidence was  
23 evidence of the absence of failures. With the  
24 assistance of the experts, and this is an example of  
25 particularly effective use of experts in this case

1 study, some of those assumptions have been identified  
2 and corrected. For example, part of the Sisters of  
3 Nazareth's response in which initially they had said  
4 that relevant government guidelines had been followed.  
5 The more accurate state of knowledge exposed by  
6 Professor Constantine's work and others, namely, that it  
7 was simply impossible through lack of records to comment  
8 on guidelines and adherence, and that was acknowledged  
9 in the evidence of the archivist for the Sisters of  
10 Nazareth as well as Sister Anna-Maria Doolan.

11 LADY SMITH: That very general statement was also covering a  
12 period when no such things as government guidelines  
13 actually existed.

14 MR SCOTT: One wonders about the care that was taken in that  
15 particular drafting. The position, however, has been  
16 corrected and it has not been necessary to wait until  
17 this final stage of the Inquiry for that.

18 A similar assumption in the Section 21 response  
19 about policies and procedures being in accordance with  
20 good practice was highlighted in the questioning by  
21 Mr MacAulay on Day 194 during the evidence of the  
22 Chief Executive of Aberlour.

23 A few concluding remarks, my Lady. Returning to the  
24 present case study, as its public sessions close on  
25 Day 199 of public hearings, just a few weeks after

1 British Home Child Day in Ontario, it is important, as  
2 ever, to acknowledge complexities and nuances where they  
3 can be shown to have featured. Undoubtedly, much of the  
4 motivation and reasoning for child migration was well  
5 intentioned or at least not malevolent. Even so, in the  
6 practice as it developed, in addition to that which was  
7 wicked, there is a combination of wishful thinking,  
8 naivety and, at times, wilful blindness as well as, at  
9 other times, the prioritisation of faith and empire over  
10 much thought, if any at all, of the individual children  
11 involved.

12 As it says in the report by Professors Constantine,  
13 Harper and Lynch, the good intention of institutions are  
14 no answer for the suffering of the many, with even the  
15 ostensibly benevolent religious motivation for migration  
16 corrupted at times by the competition between some  
17 churches for the souls as well as the bodies of children  
18 and countries.

19 Child migration was described in 2010 by  
20 Gordon Brown, the then Prime Minister, as the "shameful  
21 episode in our history" and this failure in the first  
22 duty of a nation which is to protect its children.

23 He then, on 24 February, gave the full and  
24 unconditional apology which included the following:

25 "In too many cases vulnerable children suffered

1           unrelenting hardship and their families left behind were  
2           devastated. They were sent mostly without the consent  
3           of their mother and father. They were cruelly lied to  
4           and told they were orphans and that their parents were  
5           dead, when in fact they were still alive. Some were  
6           separated from their brothers and sisters, never to see  
7           one another again. Names and birthdays were  
8           deliberately changed so that it would be impossible for  
9           families to reunite. Many parents did not know that  
10          their children had been sent out of this country."

11                 It is worth once more acknowledging the crucial work  
12          of Margaret Humphreys and the Child Migrants Trust as  
13          Mr MacAulay has done. Her work and their work was  
14          praised in the read-in statement of Helen on Day 177 who  
15          said she got something by personal attendance at the  
16          apology by the Prime Minister, having travelled to the  
17          United Kingdom especially for it. And Michaela, on  
18          Day 178, also mentioned that work too.

19                 I mentioned in my opening statement something said  
20          to Margaret Humphreys by one child migrant about the  
21          effect of the experience of child migration being like  
22          having a piece of ice inside you all the time. Margaret  
23          Humphreys herself said what struck her, having met  
24          countless adults who were child migrants, is the theme  
25          of absolute loneliness.



1 (12.39 pm)

2 Closing submissions by MR GALE

3 MR GALE: Introduction.

4 1. In our opening submission in this Case Study we  
5 noted the terms of the public apology delivered by the  
6 then Prime Minister, Gordon Brown, in the House of  
7 Commons on 24th February 2010. He described the process  
8 of child migration from institutions in the  
9 United Kingdom to far-flung lands of the British Empire  
10 as "a shameful episode of history" involving as it did  
11 a breach of "the first duty of a nation which is to  
12 protect its children." What the then Prime Minister  
13 said to the House very accurately encapsulated the  
14 failings of that process in the hands of successive  
15 Governments, particularly from the time of the Empire  
16 Settlement Act 1922 until the 1960s. Those failings  
17 began with the quite deliberate dissembling by  
18 representatives of the sending institutions who in  
19 selecting children for migration perpetuated the lie  
20 which they had fed to the children about their  
21 expectation of a future life. Many children were sent to  
22 a life of isolation and desolation in which, as we have  
23 heard in the evidence from Applicants, they suffered  
24 physical, sexual and emotional abuse.

25 2. Mr Brown's apology was not couched in terms which

1 historically contextualised the shameful episode. In our  
2 submission he was right not to do so. We note and  
3 express our appreciation that Quarriers followed that  
4 lead. In Miss Mitchell's opening submission it was  
5 acknowledged that child migration was "misguided and  
6 wrong"; that many children suffered cruelty and abuse;  
7 that there were shortcomings in the system used to  
8 facilitate child migration; and that, by implication,  
9 there were deficiencies in the policies and practices in  
10 the selection of children, the consenting process,  
11 monitoring and aftercare. We appreciate also that  
12 Miss Harper, the former CEO of Quarriers, repeated that  
13 apology in her witness statement and added that  
14 Quarriers acknowledged the impact migration had on the  
15 children migrated and their descendants. This was  
16 repeated by Dr Culley in his evidence.

17 3. We recognise that the approach taken by Quarriers  
18 on this matter is an enlightened one. It is an approach  
19 to child migration that certain of the religious  
20 organisations could, and indeed should, have followed.

21 4. In approaching this closing submission we have  
22 decided that it should be divided into two general  
23 sections. The first relates to the role which Quarriers  
24 (which name we use to cover the Orphan and Destitute  
25 Children's Emigration Home, Glasgow and the Orphan Homes



1 of Scotland - the first name is obviously of  
2 significance). In this part of the submission we rely  
3 heavily on the Report by Professors Harper, Constantine  
4 and Lynch. It is right at this stage that we acknowledge  
5 the enormous contribution of these experts and their  
6 researches to the body of knowledge regarding the  
7 migration of children from institutions in Scotland.  
8 Your Ladyship observed to Professor Constantine when he  
9 returned to complete his evidence on 29 September that  
10 it was right to comment of the awe in which she regarded  
11 the work to which he had contributed. We wholeheartedly  
12 agree with your Ladyship's comment.

13 5. We have considered in detail the work of  
14 Professors Harper, Constantine and Lynch, and in  
15 particular, Chapters 4, 5, 6, 7, 8, 9, 10 (Canada), 16  
16 (Quarriers and Canada), 19, 20, 21, 34 Appendix 1  
17 relating to Quarriers Orphan Homes of Scotland and  
18 CSCSS) and Appendix 3 relating to the monitoring systems  
19 and wider policies of the Church of Scotland and  
20 Quarriers. The historian's discipline involves the  
21 collection of relevant data, analysing the same and  
22 reached informed conclusions based on that material and  
23 in accordance with the instructing remit. As best we  
24 can, we commend the thoroughness of the experts'  
25 ingathering of information and the conclusions reached

1 appear to us to be rational.

2 6. The second section deals with what we  
3 subsequently describe as the depressing litany of abuse  
4 suffered by children migrated as spoken to by Applicants  
5 in their evidence to this Inquiry. We make no pretence  
6 that this will be a comprehensive review of the  
7 evidence. After a general recap of the evidence we would  
8 like to look at two specific examples of abuse and its  
9 consequences as encapsulated in the evidence of two  
10 Applicants. These specific references are not  
11 necessarily relevant only to the position of child  
12 migrants, but it may be that the particular  
13 circumstances of child migrants give them special  
14 resonance.

15 The Details of Child Migration from Quarriers.

16 7. The generally accepted figure of "over 7000"  
17 sent to new lives in Canada has, as a result of the work  
18 of the experts and based in part on the information  
19 provided by Quarriers, been refined to 7,384, between  
20 the periods of 1872 and 1897, and 1904 and 1938. That  
21 number represents 8.2% of all children migrated from the  
22 United Kingdom to Canada. From 1872 parties of children  
23 were initially received into distribution centres at  
24 Belleville and Galt in Ontario and Knowlton in Quebec.  
25 In 1888 William Quarrier obtained his own distribution

1 centre. Children were placed with farmers and  
2 individuals who had made application to have them live  
3 with them. It is clear that the child was expected to  
4 work. Those under working age were also required to  
5 work. As was noted in the Doyle report "Pauper Children"  
6 a girl who was aged 16 or 17 was noted as saying  
7 "Doption, sir, is when folks gets a girl to work  
8 without wages."

9 8. In 1924 Quarriers largely restricted its  
10 migration programme to juveniles as a result of an age  
11 restriction imposed in Ontario, and as a likely result  
12 of that restriction, in 1934 Quarriers considered  
13 Australia as a possible destination for child migration.  
14 It was not, however, until [REDACTED] 1939 that Quarriers  
15 despatched a group of 17 boys and girls to Burnside  
16 Presbyterian Orphan Home, Parramatta, New South Wales.  
17 Between 1960 and 1962 Quarriers, in response to  
18 approaches from the Church of Scotland Committee on  
19 Social Services, migrated a total of 21 boys (in Parties  
20 of 11, 5 and 5) to Dhurringile Training Farm, Victoria.

21 (12.59 pm)

22 (The short adjournment)

23 (1.45 pm)

24 LADY SMITH: Good afternoon. I am so sorry about this  
25 disruption. As you may have heard, apparently WebEx

1           were running an update which we didn't know about, and  
2           it had the effect of disabling microphones which we  
3           didn't know about, but I am assured all is now well.

4           Mr Gale, when you are ready. Can I ask you to pick  
5           up wherever is convenient for you.

6       MR GALE: Yes, my Lady. I think in the prepared submission  
7           I was at paragraph 8. I think I was about to go on to  
8           mention the period between 1960 and 1962 when Quarriers,  
9           in response to approaches from the Church of Scotland,  
10          migrated a total of 21 boys in parties of 11, five and  
11          five to Dhurringile and Victoria.

12          From the above figures, it is obviously apparent  
13          that William Quarrier, throughout his life, embraced the  
14          concept of child migration to the point that it was  
15          an integral part of Quarriers' policy. We have no doubt  
16          that William Quarrier, in establishing his homes and in  
17          pursuing a policy of extensive child migration, was  
18          motivated by what he saw as a philanthropic and  
19          Christian desire to provide children with an opportunity  
20          to enjoy a better life and in pursuance of this vision,  
21          he visited Canada.

22          What we say is that however noble the intention, it  
23          is important to appreciate that the policy may be wrong  
24          without visiting on that assessment a 21st century  
25          social and moral perspective. We agree with the

1 suggestion made by the experts as summarised in their  
2 executive summary in the following terms, and I quote:

3 "Philanthropic sending agencies had what they  
4 considered to be good intentions, especially the  
5 faith-based who believed that they were doing God's work  
6 saving souls as well as the bodies of children, but it  
7 has been argued that the righteousness of the cause  
8 obscured understanding of the consequences of inadequate  
9 care."

10 The comment made by Professor Constantine in his  
11 oral evidence to the effect that if a child had  
12 a miserable life in Scotland, then a life abroad must be  
13 better also resonates.

14 While it is obviously for Quarriers to expand on its  
15 acknowledgement that child migration was wrong and  
16 misguided, particularly in relation to the period from  
17 1872 to 1938, it does appear to us that viewed from the  
18 perspective of the time, there was something inherently  
19 wrong in exposing children, whose cares the organisation  
20 was committed to protect, to being uplifted from their  
21 home and their home country and being transported across  
22 the Atlantic to a country of which they would likely be  
23 entirely ignorant to work on farms and homesteads.

24 My Lady, the point that I would additionally make  
25 there is in relation to isolation. It was particularly

1           apparent from the experts' report in a number of  
2           sections that isolation was what was experienced by  
3           children in Canada in that period. This was emphasised  
4           in his evidence by Professor Constantine and that at the  
5           transcript of 17 September at pages 117 to 118.

6           The matter was introduced when he was asked about  
7           the feasibility of the inspection of farms and homes  
8           that children were placed in. He said that it was  
9           exceedingly difficult given the distances involved, and  
10          even an inspector, using that term loosely, could  
11          venture to the home where a child could be intimidated  
12          by the presence of the person or persons in whose care  
13          the child had been placed.

14          Your Ladyship pursued that, looking at it from the  
15          child's point of view, and observed that the child, if  
16          he or she were being abused and wanted somebody to help,  
17          they had no means of contacting anyone from the  
18          distribution centre. In essence, they had no one to ask  
19          for help.

20          Turning to the text, my Lady. The rationale for  
21          migration from Quarriers developed from the original  
22          benevolent desire to provide a better life for residents  
23          and a corresponding wish to free up accommodation for  
24          others, to a desire to avoid the scourge of unemployment  
25          and depression in post-Depression era Britain.

1           In the 1930s, Dr James Kelly saw children as being  
2 more adaptable to the circumstances of migration and  
3 life in Canada than juveniles unless prone to  
4 disillusionment. The experts noted that Kelly  
5 identified "imperialist sentiment" as playing a part in  
6 Kelly's developing rationale when he commented in 1938  
7 that migrants were "of British stock, that which Canada  
8 requires most of all".

9           These are references, my Lady, to the experts'  
10 report.

11           It is somewhat difficult to understand the rationale  
12 behind the decision to resume migration in 1939 after  
13 a gap of several years and an increasing diminution in  
14 the number of children migrated. It may be that  
15 a kindling or possible rekindling of the imperialist  
16 sentiment, as manifested in Kelly's comment, was in part  
17 a reason for this. The Second World War may have  
18 explained in part the cessation of further migration but  
19 the resumption, albeit in much smaller numbers in the  
20 early 1960s and in the post-Curtis and Clyde Reports  
21 era, is less explicable.

22           There can be little in the way of an explanation for  
23 this resumption in the 1960s. It is of concern that  
24 only two reports were sent back to Quarriers in 1962 and  
25 1964 regarding the children migrated to Dhurringile.

1           Indeed, it appears that those reports were prepared by  
2           an individual in respect of whom complaints of physical  
3           and psychological abuse have been made.

4           Quarriers reflected positively, albeit briefly, on  
5           Dhurringile in its Narratives of Facts for 1960, 1961  
6           and 1964.

7           As the experts conclude:

8           "As a public document intended to encourage support  
9           for the charity, however, this information would not of  
10          itself be indicative of a rigorous system of monitoring  
11          either of Dhurringile as an institution or of the  
12          welfare of individual children sent there."

13          In respect of the children migrated to Dhurringile,  
14          certain of the letters seeking parents' consent and  
15          obtained by the experts have given rise to concern.  
16          What appears to be a standard form letter sent to  
17          parents by the Quarriers superintendent, parents were  
18          informed that:

19          "Altogether we feel it would be a very good choice  
20          for the boys selected, especially when their outside  
21          contacts in this country are not so strong."

22          The substantive part of the letter concludes with  
23          the words:

24          "I would, too, like you to know that [space for  
25          insertion of the child's name] is very keen to go."



1           The experts observe that the phrasing of this letter  
2           could be seen as placing a degree of emotional pressure  
3           on the parents, particularly through the expression of  
4           the child's expectation. Whether the matter should have  
5           been discussed with the child in advance of the  
6           communication with his or her parents must be open to  
7           question, but a letter less suited to be in standard  
8           form would be difficult to envisage.

9           Reverting to the migration of the party to Burnside  
10          in 1939, the experts have considered documents which  
11          give rise to concern as well. Letters sent to parents  
12          of children gave them reason to believe that their  
13          children would be sent to a receiving institution which  
14          was a Fairbridge Farm School, an institution which  
15          Quarriers had particularly praised, and letters sent by  
16          parents proceeded on that basis. As far as can be  
17          ascertained, these misapprehensions were not corrected  
18          by either Fairbridge or Quarriers, and the experts were  
19          unable to discover any connection between the two  
20          institutions, and no reference to Burnside is contained  
21          in the contemporaneous Fairbridge annual reports. It is  
22          reasonable to conclude that some, if not all, of the  
23          parents whose agreement to the migration of their  
24          children from Quarriers to Australia in 1939 were misled  
25          in a substantial way.

1           In addition, the terms of further correspondence  
2 passed between Quarriers and a parent who had apparently  
3 engaged solicitors to act for her when she became aware  
4 of her son's intention to be migrated to Australia and  
5 the need for her consent. Having initially refused to  
6 give this, she received a letter from Quarriers in the  
7 following terms:

8           "On the assumption that this letter was dictated by  
9 you, I regret very much that you do not see your way to  
10 consent to the emigration of [your child]. You  
11 certainly have no prospects for him, and why stand in  
12 his way?"

13           This letter was discussed in the evidence of  
14 Professor Lynch and my Lady commented on it. The terms  
15 of the letter, discussing as it was the future of  
16 a mother's son, were high-handed and condescending at  
17 best and, at worst, simply offensive.

18           In conclusion, and in respect of the later migration  
19 of children from Quarriers to Australia, we express our  
20 concern that Quarriers took a positive decision to  
21 resume its policy of child migration in 1939, and that  
22 then, after a gap of a further 20 years or thereby,  
23 returned again to that policy. The decision to migrate  
24 children to Dhurringile is particularly concerning given  
25 that the Ross Report, which would have been available to

1 the Church of Scotland, observed some four years before  
2 the migration in the early 1960s that the institution  
3 was "isolated, bare and comfortless" and that the  
4 "general attitude" to the boys on the part of the  
5 committee members at the farm was described as  
6 "deplorable" and that "some boys appeared unhappy and to  
7 be badly in need of sympathy and understanding which  
8 were noticeably lacking".

9 We have obviously heard from applicants of abuse at  
10 this institution. We particularly make reference to the  
11 evidence of Jok, and, apologies, I forgot to insert  
12 there Hugh McGowan who was migrated from Quarriers.

13 My Lady, turning to the second aspect of our  
14 submission which is the evidence of abuse. The evidence  
15 from applicants of both sexes has disclosed  
16 a depressingly familiar litany of abuse, perpetrated on  
17 vulnerable children by those who were expected to care  
18 for their well-being. The context of the abuse is  
19 of course significant. The locations of the  
20 institutions were frequently geographically remote.  
21 Opportunities to complain to external third parties were  
22 rare.

23 We begin by looking at lies and deceit. Applicants  
24 frequently gave evidence that they were deliberately  
25 misled about their eventual intended destinations. At

1           least two applicants were told that Australia was just  
2           down the road or just around the corner. Reconciling  
3           the existence of a temperate land featuring bountiful  
4           fruit and kangaroos with post-war Aberdeen was  
5           an understandable difficulty. The perspective of  
6           a child growing up in an institution in the inter-war or  
7           post-war periods was obviously restricted.

8           Children were frequently lied to about their family  
9           backgrounds. Mr Scott and my learned friend Mr MacAulay  
10          have already raised this, and I make a few examples.  
11          Some were told that they were war orphans. Fred Smith  
12          was told that his family had been killed in the war,  
13          Bert McGregor described this as what he called the  
14          "massive lie". Several applicants spoke of discovering  
15          in later life the existence of parents and siblings and  
16          extended families and coming to terms with that  
17          knowledge. Yvonne Radzevicius, I will just call her  
18          "Yvonne", was given a different Christian name for the  
19          purpose of her trip to Australia. Loss of identity and  
20          divorce from family seemed almost a policy.

21          I then turn to physical abuse. This took place  
22          using hands, fists, feet, implements such as belts,  
23          sticks, rulers, canes, and two witnesses mentioned  
24          a shillelagh. Johnno spoke of being regularly beaten  
25          with a strap which had two old pennies at the end. He

1 believed that one of the Brothers deliberately tried to  
2 drown him. He gave the impression of living in constant  
3 fear in both Castledare and Clontarf. Watto and Trish  
4 both gave evidence of being beaten with sticks and  
5 straps.

6 In addition to the obvious physical injuries, the  
7 connection between physical abuse and psychological  
8 damage was made by a number of witnesses. Harry was  
9 asked if what he termed flogging caused injury. He said  
10 that it hurt a lot psychologically, "It would make you  
11 feel that you weren't wanted, you were just scum".  
12 Another familiar aspect of physical abuse was the  
13 inability to complain for fear of further repercussions,  
14 a problem exacerbated by the frequently remote locations  
15 of the institutions. Children spoke of running away  
16 only to be returned to the institutions where further  
17 excessive punishments would be meted out.

18 Sexual abuse was frequently suffered or witnessed.  
19 It was both penetrative and non-penetrative. Harry was  
20 abused by three Brothers at Clontarf and saw others  
21 abused.

22 Fred Smith said in his book:

23 "The Bindoon chapter closes. As a 9 year old, I am  
24 looking forward to the move because the horror will stop  
25 and my bottom and other parts will heal."

1           At Clontarf, Fred was "used as a girl three times  
2 a week for two years that I was there". His abuse only  
3 ceased when he contracted rheumatic fever at Tardun.

4           Physical work was also a feature and it was  
5 inappropriate for children. Harry was involved in the  
6 construction of handball courts and swimming pools.  
7 From when he was first at Bindoon, Fred Smith was  
8 involved in construction work. Trish was required to  
9 clean dead bodies. Farm work was a frequent feature.  
10 Much of the work was to the exclusion of school work.  
11 The conclusion that the children were used as a cheap  
12 labour force is inescapable.

13           There were then also random acts of cruelty.  
14 Applicants were often forced to watch acts of cruelty  
15 directed towards others. The removal of the small  
16 number of possessions which children arrived in  
17 Australia with, never to be seen again, was a regular  
18 feature. Of particular distress was the killing of  
19 pets, in one case a favourite horse in front of Harry  
20 and pet dogs in the presence of Fred.

21           Bed-wetting and humiliation was again a feature.  
22 For those who wet the bed there was frequently  
23 punishment and humiliation. Reference is made to the  
24 evidence of Fred and Johnno, the references are given.  
25 When Johnno first arrived in Castledare, he and the other

1 arrivals were forced to strip naked. As he put it, "all  
2 our self-worth was gone".

3 Feelings of worthlessness were again a frequent  
4 observation. Harry made the comment in respect of those  
5 injured in the bus accident that the attitude of those  
6 in charge of their care was that "They were orphans, so  
7 who gives a bugger?"

8 He went on to say the following:

9 "I sailed over here for a new life and all I got was  
10 messed up. I was bashed, flogged and molested. I still  
11 go to bed now sometimes and feel scared. It is with me  
12 all the time ... I am 75 and I'm nearly ready to die.  
13 It is still with me."

14 In the course of a case study, certain witnesses  
15 stand out for reasons that are not always clear. Some  
16 witnesses bring home a particular aspect of abuse or its  
17 consequences. And almost replicating what Mr Scott  
18 said, I refer to the evidence of Scott and his son Brian  
19 and the witness Michaela.

20 Scott was at the time of giving evidence about 85.  
21 For years he thought that he was the only one in his  
22 family. His son Brian carried out research into his  
23 father's background to discover recently that he had  
24 siblings. Scott was migrated to the Fairbridge home in  
25 Middlemore in 1939 and then to Bennington. In the

1 course of his evidence he was shown a number of letters  
2 sent to him in Canada by his grandmother of which he was  
3 unaware. He referred to punishments in particular for  
4 those who were bed-wetters. He was strapped on the  
5 wrist to ensure that he wrote right-handed. He was  
6 picked on because of his small stature. He described  
7 himself as moody, but there could be little doubt as to  
8 the delight he had recently experienced in discovering  
9 his other family members.

10 What was striking was the evidence of his son which  
11 immediately followed Scott's evidence. Asked if he had  
12 experienced problems growing up with his father, Brian  
13 did not hold back, and I quote:

14 "Absolutely 100%. He wasn't a dad. He didn't know  
15 how to be a dad. My life growing up as a kid sucked.  
16 There is no other term I can use. It sucked, it was  
17 absolute shit and I hated it. I hated everything about  
18 him ... He was a complete asshole growing up."

19 Brian went on to say that his father had been cast  
20 aside for 40 years of his life, never having anyone to  
21 show him, to guide him, to teach him how to be a loving  
22 father and husband. What that evidence brought home  
23 powerfully was the effect the abuse of a child can have  
24 on later generations, the point made by  
25 Professor Constantine in a general observation



1           concerning the apparent absence of love in institutions  
2           for child migrants. It was quite clear that Brian had  
3           suffered as a result of the abuse inflicted upon his  
4           father.

5           Just pausing there, my Lady, to say that it would  
6           not have been observed by my Lady, because I think she  
7           had left the room after the conclusion of Brian and  
8           Scott's evidence, but the two of them quite clearly --  
9           they hugged each other, in our presence here, and it was  
10          a very touching scene to see.

11          A similar point relating to abuse trickling down to  
12          other generations was in the evidence of Yvonne,  
13          an applicant who was migrated from the Sisters of  
14          Nazareth home in Cardonald to Australia. She was given  
15          a different Christian name for the purpose of the  
16          migration process. She said:

17                 "Because of my childhood, nobody's taught you how to  
18                 love. And that was brought out in my upbringing of my  
19                 two daughters. It was discipline, discipline,  
20                 discipline, like I got at the convent. To this day,  
21                 I cannot hug my daughters ... it goes on, generation  
22                 after generation after generation. My daughters are  
23                 bringing their children up with discipline ... Nobody  
24                 showed me, I didn't show them. That to me is worse than  
25                 any other form of abuse."

1           I turn now to the witness Michaela. She was 74 when  
2 she gave evidence. She was migrated from Nazareth House  
3 in Aberdeen to St Joseph's. In her evidence she  
4 described the abuse she suffered at the hands of the  
5 nuns there. For present purposes, we concentrate on one  
6 particular aspect. In the course of her journey to  
7 Australia during play, her glasses were snatched off her  
8 face and thrown overboard. Without her glasses her  
9 eyesight was poor. She was unable to distinguish  
10 between various letters and figures. When she mentioned  
11 the need for glasses she was told "You're like everyone  
12 else, you don't need glasses."

13           When she made the inevitable mistakes, she was beat  
14 within a bamboo cane by a nun. As a consequence, she  
15 was sent to the back of the classroom from where she  
16 could hardly see anything. When asked what effect this  
17 had upon her, she said that:

18           "So when the girls that were my age finished primary  
19 school there, the girls went to Rockhampton ... and they  
20 got fitted out for clothes and I said, I'll be next, and  
21 I never got fitted out for clothes. To this day they  
22 have never told me why I didn't go. So then I just had  
23 to stay there and start work."

24           Eventually she received glasses when she was 18  
25 after the Mother Superior found that she could not read

1 a letter which had been sent to her by her brother.

2 For Michaela it was important to stress to this  
3 Inquiry her denial of education and its consequences.  
4 When asked to describe the worst thing about being in  
5 care, she said it was the lack of education:

6 "If I'd been educated I think I could have been  
7 anything I really wanted to be, if I was educated."

8 Other witnesses mentioned the denial of proper  
9 educational facilities when in care in institutions in  
10 Australia. Fred Smith said that lack of education had  
11 followed him right throughout his life. Johnno said that  
12 he had left Castledare "after I supposedly passed grade  
13 3 without even the slightest knowledge of anything  
14 educational."

15 In the case of Michaela, it appeared that what would  
16 normally be regarded as her entitlement to a basic  
17 education was simply disregarded by those in whose care  
18 she was placed. The failure to appreciate her need for  
19 glasses and to provide her with the same indicates  
20 a callous disregard for her basic needs. The long-term  
21 effect of this failure on Michaela was very, very  
22 apparent.

23 My Lady, finally in conclusion, and very generally,  
24 we would say that child migration was accurately and  
25 properly described as a shameful episode in our history.

1           One hopes and prays that it never is thought necessary  
2           to do anything of this like again, but it is certainly  
3           hoped that no government would ever think that it was  
4           appropriate to support or facilitate schemes which  
5           involve the migration of vulnerable children.

6           My Lady, that completes what I have to say.

7           Thank you.

8           LADY SMITH: Thank you very much, Mr Gale. That is very  
9           helpful.

10           Could I turn now, please, to the closing statement  
11           on behalf of the Lord Advocate. Ms Lawrie, when you are  
12           ready.

13           Closing submissions by MS LAWRIE

14           MS LAWRIE: My Lady, I am grateful for this opportunity to  
15           make a closing submission to the Inquiry on behalf of  
16           the Lord Advocate.

17           During the course of the present case study, the  
18           Inquiry has heard evidence of the process of the child  
19           migration programmes and the impact on those who, as  
20           children, were sent from Scotland to countries many  
21           thousands of miles away, and of the emotional, physical  
22           and sexual abuse of many of those migrated children in  
23           the countries of destination.

24           Some had only vague recollections of their  
25           experiences in Scotland due to their young age on

1 departure, but the Inquiry heard evidence of some of the  
2 abuse they experienced in Scotland before their  
3 departure. Many were told they had no family remaining  
4 in Scotland only to find out many years later that this  
5 was not in fact true.

6 However, the investigation and prosecution of  
7 historical abuse perpetrated abroad against those  
8 children who formed part of the child migrant programme  
9 would generally fall outwith the scope of the criminal  
10 justice system in Scotland. Extraterritorial  
11 jurisdiction only applies to certain offences alleged to  
12 have been committed by UK nationals post 1997 after  
13 child migration ceased.

14 Accordingly, my Lady, I have nothing more to add  
15 other than to repeat what has been said at the closing  
16 of previous case studies, namely, the Lord Advocate's  
17 continuing commitment to supporting the work of the  
18 Inquiry and to contributing both positively and  
19 constructively to its work and also to ensuring the  
20 fair, effective and rigorous prosecution of crime in the  
21 public interest for all members of society, including  
22 the most vulnerable.

23 I am grateful, my Lady.

24 LADY SMITH: Thank you.

25 I now would like to turn, please, to closing

1           submissions for the Chief Constable of Police Scotland,  
2           Ms van der Westhuizen. Yes.

3                   Closing submissions by MS VAN DER WESTHUIZEN

4           MS VAN DER WESTHUIZEN: My Lady, Police Scotland is grateful  
5           for the opportunity make this closing statement in  
6           respect of the Inquiry's hearings into child migration.

7                   Firstly, on behalf of Police Scotland, I would  
8           like to express continued sympathy to survivors who have  
9           experienced abuse within care establishments across  
10          Scotland and to those who experienced abuse after being  
11          sent to other countries as part of child migration  
12          programmes.

13                  Police Scotland remains committed to delivering its  
14          response to the Inquiry and ensuring it provides all  
15          relevant information regarding police policies,  
16          procedures and previous investigations into the abuse  
17          and neglect of children in establishments falling under  
18          the Inquiry's remit.

19                  As your Ladyship is aware, Police Scotland receives  
20          notifications from the Inquiry regarding perpetrators of  
21          child abuse in order to facilitate an assessment of the  
22          current risk posed by those perpetrators. With regard  
23          to this phase of the Inquiry's hearings, Police Scotland  
24          has received notifications regarding abuse perpetrated  
25          in Australia and Canada and has shared relevant

1 information with law enforcement agencies in those  
2 countries.

3 Police Scotland continues to build on its engagement  
4 with adult survivors of childhood abuse, seeking views  
5 and consulting with survivors, support services and  
6 statutory partners in an effort to enhance public  
7 confidence and improve service provision to adult  
8 survivors. This engagement has significantly informed  
9 the development of information resources on reporting  
10 abuse to the police, including an information leaflet  
11 for adult survivors of childhood abuse and the  
12 Information for Adult Survivors of Childhood Abuse  
13 animation film, both of which can be accessed on  
14 Police Scotland's website.

15 Police Scotland would like to take this opportunity  
16 to reassure survivors, the Inquiry and the people of  
17 Scotland that it is fully committed to thoroughly  
18 investigating all forms of child abuse regardless of  
19 when or where the abuse happened and who was involved.  
20 Police Scotland also recognises the importance of using  
21 organisational learning to ensure its officers and staff  
22 have the capabilities and skills required to effect  
23 continuous improvement. As such, Police Scotland will  
24 take into account any lessons to be learned that may be  
25 identified from this and any other case study as part of





1           This Inquiry, as other inquiries before it, has  
2           heard stories of abuse and suffering that challenge our  
3           humanity. Those who have bravely given testimony have  
4           told of the impact of these past failures on their lives  
5           and those close to them. Their suffering is intense,  
6           raw and deeply moving.

7           To all those who continue to endure this terrible  
8           suffering, we, that is the Oceania Province of the  
9           Christian Brothers, want to say that we have heard them  
10          and acknowledge their pain. What occurred in their  
11          homes is of the deepest shame to the current  
12          Christian Brothers. They will never defend the  
13          indefensible.

14          To the survivors of abuse in those institutions, the  
15          Christian Brothers reiterate their apology first made in  
16          1993. This apology endures. They commit themselves to  
17          walking with them on their lifelong journey in search of  
18          redress and healing for the failures of the past.  
19          Whilst what has happened cannot be changed, they will  
20          continue to seek to work with all victims, responding to  
21          individual needs and circumstances with compassion, care  
22          and respect.

23          LADY SMITH: Thank you for that, Mr Watson.

24          MR WATSON: My Lady, if I turn then to the closing  
25          statement. I do not propose to go through this

1 line-by-line, my Lady, unless that would particularly  
2 assist your Ladyship. I am obliged.

3 Your Ladyship will see that in that introductory  
4 section, reference is made to the past involvement of  
5 the Christian Brothers in respect of their home at  
6 St Ninian's in Fife. In addition, your Ladyship has now  
7 heard extensive evidence of the abuse suffered by  
8 children who were placed with the Christian Brothers in  
9 Australia, and your Ladyship has heard that evidence  
10 directly from those who were migrated and suffered  
11 abuse, and also from having the benefit of the  
12 comprehensive expert reports and oral evidence again  
13 detailing the abuse that was suffered.

14 Turning to the forms of abuse, my Lady. In 2000,  
15 the Senate of the Australian Commonwealth Parliament  
16 referred to the Senate Community Affairs Reference  
17 Committee the task of enquiring into child migration in  
18 Australia. That committee found that there had been  
19 widescale unsafe, improper and unlawful management and  
20 mistreatment of children, a failure of duty of care and  
21 serious repeated breaches of statutory obligations, and  
22 the Christian Brothers accept that in its entirety,  
23 my Lady.

24 The Christian Brothers' awareness and understanding  
25 of the existence of sexual abuse within the organisation

1 and the nature and effects of sexual abuse have become  
2 much more developed in recent decades, and that is by no  
3 means to excuse what happened before, but as  
4 your Ladyship will have seen from the reports and in  
5 particular from the expert evidence, there has been  
6 a growing picture and understanding of response to that.

7 On the documentary evidence available to the  
8 Australian Royal Commission, the Christian Brothers were  
9 aware of nine allegations of sexual abuse, and I have  
10 set out what those were. The Australian Royal  
11 Commission also found that there was knowledge by the  
12 Christian Brothers of abuse in each relevant decade, and  
13 again the Christian Brothers recognise their  
14 responsibility and failure in that regard.

15 There was no knowledge at provincial council levels  
16 of the particular abuse that was heard at the commission  
17 or at this Inquiry, certainly not the intensity and  
18 severity of the abuse described in the hearings. And  
19 again, my Lady, that is not to suggest that the  
20 awareness that there was, was such that it ought to have  
21 been dealt with as it was. It was not, and the  
22 Christian Brothers recognise that.

23 Turning to the identification and prevention of  
24 abuse. The evidence from the Australian Royal  
25 Commission demonstrated that in the 50 years prior to

1           1969, allegations of abuse from various parts of  
2           Australia were reported to provincial leaders. The  
3           records demonstrate that the provincial leaders took  
4           action in some cases, according to the norms of canon  
5           law and what they saw as the wisdom of the day, which  
6           included putting the allegation to the relevant Brother,  
7           conducting investigations, transferring the Brother to  
8           a relevant less high-risk community, issuing warnings  
9           and co-operating with the prosecution of the Brothers.

10           My Lady, the point the Christian Brothers want to  
11           underscore is that they do not condone the behaviour  
12           which occurred, nor their responses where those were  
13           inappropriate. Some of those actions were very  
14           different from what would rightfully be expected today,  
15           including of course the movement of Brothers between  
16           locations.

17           LADY SMITH: And the lack of reference to the police.

18           MR WATSON: Yes, my Lady.

19           Turning to governance, inspection and visitation.  
20           There were minimal written policies and procedures in  
21           relation to child protection, the handling of complaints  
22           of child sexual abuse and the disciplining of alleged  
23           offenders applying to the Western Australian  
24           institutions during the period. My Lady, I have set out  
25           there the relevant section of the Directory and Rule,

1 and the point to be taken from that is that even in the  
2 absence of such written policies or procedures, it ought  
3 to have been clear to Christian Brothers that they were  
4 to treat pupils and others with respect and dignity.  
5 There was a very clear implication that the invasion of  
6 a child's sexuality was, and is, criminal behaviour.

7         Turning to the effectiveness of the system, the  
8 Christian Brothers accept that the physical conditions  
9 at the institutions permitted no privacy and required  
10 the boys to be naked in front of the Brothers and each  
11 other. The dormitory style accommodation with the  
12 Brothers sleeping in rooms off the dormitory, or boys  
13 and Brothers sleeping together on the verandah created  
14 a physical environment where the boys had no privacy  
15 from the Brothers. The practice of having boys make up  
16 Brothers' rooms enabled Brothers to be alone with boys  
17 in their rooms.

18         While the conditions in this respect may have been  
19 consistent with the standards of the time, and  
20 accordingly no steps were taken during the period to  
21 provide greater privacy, the Christian Brothers accept  
22 that the lack of privacy may have contributed to some of  
23 the conduct referred to.

24         I turn to systemic failure. The Christian Brothers  
25 consider the abuse described by those who have made

1 individual statements as the depths of human depravity.  
2 That Christian Brothers were guilty of stealing the  
3 innocence of children and using them for their own  
4 personal sexual gratification beggars belief. Simply to  
5 have been associated with them as members of the same  
6 congregation is a matter of intense personal shame for  
7 the current Brothers. And on behalf of the  
8 Christian Brothers of Oceania, I do reiterate their  
9 profound and sincere apologies.

10 They accept that some of the conditions at each of  
11 the four institutions were unacceptable as residential  
12 care facilities for children, and they accept that their  
13 leadership during the period failed to manage each of  
14 the institutions so as to prevent the sexual abuse of  
15 children resident in the institutions. And as I say in  
16 the closing statement, my Lady, while that should be put  
17 in context, that the Christian Brothers at the time knew  
18 of nine allegations of sexual abuse and had taken steps  
19 in response to each allegation, they accept that the steps  
20 they took were not, individually or in total,  
21 sufficient, my Lady, and did not identify the pattern of  
22 sexual abuse that was occurring.

23 Turning then to the children's complaint system.  
24 Again there were minimal written policies and procedures  
25 in relation to child protection, the handling of

1 complaints of child sexual abuse and the disciplining of  
2 alleged offenders applying to these institutions from  
3 1947 to 1968. In the early 1990s, Brother Julian  
4 McDonald, who was then assistant provincial leader,  
5 wrote a circular letter to the Christian Brothers  
6 schools in New South Wales and the Australian Capital  
7 Territory, which were part of the St Mary's province at  
8 the time. The circular letter invited persons to come  
9 forward who had been sexually abused by the  
10 Christian Brothers.

11 The Christian Brothers accept that the limited role  
12 played by the state authorities at the time contributed  
13 to the boys having little access to adults outside the  
14 institutions to whom they may have disclosed their  
15 conditions, including the abuse. In short, my Lady,  
16 there was little or no place for the voice of the child,  
17 either to the Christian Brothers or to the wider state  
18 authorities.

19 My Lady, in the following section I have set out in  
20 some detail the steps that the Christian Brothers have  
21 taken, principally following their engagement with the  
22 Australian Royal Commission, and I don't intend to go  
23 through this line-by-line with your Ladyship but  
24 your Ladyship will see the individual steps that the  
25 Christian Brothers have taken and continue to take.

1           If I may categorise broadly, that falls into two  
2           camps. First, the more practical assistance, help,  
3           counselling and so on for those who were the victims of  
4           abuse. And, secondly, the financial support of those  
5           who have come forward to them, whether that be through  
6           the provision of funds directly through a redress scheme  
7           or through civil compensation.

8           Finally then, my Lady, I turn to the question of  
9           an apology. In 1993 an apology was issued by  
10          Brother Faulkner on behalf of the Christian Brothers in  
11          The Australian and The West Australian newspapers. That  
12          statement made a commitment to constructive action and  
13          was designed to promote healing and reconciliation. All  
14          the Australian province leaders supported and endorsed  
15          that apology. A copy of the apology was published in  
16          The West Australian newspaper. There were further  
17          statements of apology from Brother Julian McDonald at  
18          the Australian Royal Commission, and further apologies  
19          have been offered at hearings before the Senate  
20          Community Affairs Reference Committee. And, of course,  
21          an apology has been tendered before your Ladyship's  
22          Inquiry as well.

23          My Lady, your Ladyship will have noted the phrases  
24          such as "the depths of human depravity", and I do want  
25          to underline that that comes from the Brothers, my Lady,



1           it was not written on their behalf. And so this  
2           statement is tendered to your Ladyship as this case  
3           study concludes.

4       LADY SMITH: Thank you. Thank you very much for that,  
5           Mr Watson. I understand that you are also going to  
6           deliver the closing submissions for Barnardo's, is that  
7           right?

8       MR WATSON: That is correct, my Lady.

9       LADY SMITH: When you are ready, I am ready to hear you.

10           Closing submissions by MR WATSON on behalf of Barnardo's

11       MR WATSON: I'm obliged, my Lady.

12           My Lady, at the outset of his oral evidence, Richard  
13           Simpson, Barnardo's Assistant Director for Safeguarding  
14           and Historical Abuse, reiterated Barnardo's apology to  
15           all those affected by child migration. He stated:

16           "On behalf of Barnardo's, I would like to offer  
17           an apology to those children and young people who were  
18           migrated to Canada and Australia. While to understand  
19           migration we have to set it within its historical  
20           timeframe, this does not mean we seek to minimise the  
21           impact of migration on those children and young people  
22           and their families. The policy of migration was  
23           misguided and, in retrospect, wrong. We believe we have  
24           tried to understand and give an honest account of this  
25           part of our history."

1           My Lady, it's clear from the accounts of the  
2 Barnardo's child migrant witnesses that some of them  
3 suffered harm before they went to Australia in  
4 Barnardo's homes. Barnardo's also knows, from  
5 cross-referencing the names of young people involved in  
6 the investigation of abuse at Picton with the names of  
7 children whom we know Barnardo's migrated, that some  
8 young people suffered sexual abuse in Australia.

9           While it has been acknowledged by the expert report  
10 that there was a prompt and robust response to that  
11 abuse, it took place out of the farm school in Picton  
12 and was perpetrated in the main by former Barnardo's  
13 staff members. It is a source of significant regret  
14 that young people entrusted into Barnardo's care  
15 suffered such abuse and Barnardo's apologises  
16 unreservedly for that.

17           Your Ladyship has heard evidence from those who were  
18 migrated by Barnardo's either orally or through having  
19 their statements read in. Your Ladyship has also heard  
20 from Barnardo's Assistant Director, and again I do not  
21 intend to attempt to summarise the evidence but  
22 highlight areas of particular note, and your Ladyship  
23 will see they are the areas outlined.

24           Starting then with the selection of children for  
25 migration. It was clear from the records that migration

1 was seen as a genuine opportunity for children, and  
2 your Ladyship heard from several sources Dr Barnardo's  
3 phrase "the golden bridge of opportunity". The stated  
4 intention was to offer migration to children who were  
5 described as "the flower of our flock".

6 Barnardo's has not retained records which can  
7 demonstrate whether, in practice, this was what was  
8 undertaken. Much of the material retained relates to  
9 earlier years and migration to Canada, whereas 46 of the  
10 47 children migrated from Scotland went to Australia.  
11 There are limited documents describing the basis of  
12 selection. What is known is that members of Barnardo's  
13 staff visited homes, including homes in Scotland,  
14 showing films and giving information about migration.  
15 Children and young people were then asked to express  
16 an interest in migration. Some children and young  
17 people were selected on the basis of joining siblings  
18 who had previously migrated, two joined foster carers  
19 who had themselves migrated. And your Ladyship has also  
20 heard evidence of medical checks prior to migration.

21 I have set out there, my Lady, findings of fact that  
22 your Ladyship may want to take into consideration.  
23 Barnardo's acknowledges that it was necessary for there  
24 to be a clear and robust system of selection for  
25 migration and it cannot now be demonstrated that there

1 was such a system, nor that it was followed in practice.

2 Turning to information provided to children and  
3 parents. Your Ladyship has heard evidence that there  
4 was little information provided to children prior to  
5 migration. The evidence of Margaret was that she found  
6 out the day before she left for Australia. The evidence  
7 of Amy was that she was asked if she wanted to go to  
8 Australia but did not know where it was. Although  
9 Barnardo's has been able to identify that consent was  
10 sought, it is not evident from the records what  
11 information was provided to children or to their parents  
12 prior to migration beyond there being evidence that  
13 letters were sent to parents, and again that is borne  
14 out by the witness evidence your Ladyship has heard.  
15 Your Ladyship may well find that there was evidence that  
16 some information was provided to children prior to  
17 migration but that that evidence was not adequate to  
18 provide them with sufficient information prior to  
19 agreeing to migration.

20 Turning to the obtaining of consent for migration.  
21 Barnardo's did seek to obtain consent for migration.  
22 Richard Simpson gave evidence that Barnardo's has  
23 a record of consent for practically every child who  
24 went. This was consent obtained from the child's parent  
25 or guardian. Barnardo's also sought the wishes of the

1 child. It is, however, an entirely separate question as  
2 to whether the children were able to give valid consent  
3 to migration. Barnardo's notes in particular the  
4 evidence of Professor Norrie:

5 "Particularly in earlier years children may have  
6 been migrated when they were below the age at which they  
7 could give a valid consent. Even where a child was old  
8 enough, putting it at its very highest, and in the  
9 absence of information as to what children were told, it  
10 would be difficult to conclude that they had given  
11 informed consent to migration."

12 Richard Simpson agreed in his evidence that parents  
13 were asked to sign a wide-ranging consent form, and that  
14 is at the point at which a child entered Barnardo's  
15 care. He did, however, note that for Australian  
16 migration, consent was revisited at the time a child was  
17 put forward for selection. Nonetheless, Barnardo's  
18 would not seek to challenge the evidence of  
19 Professor Norrie that parental consent was of doubtful  
20 efficacy since parental authority was, in principle,  
21 inalienable, nor would Barnardo's challenge the evidence  
22 that the legal basis for accepting the consent of the  
23 child was dubious.

24 LADY SMITH: In common with the other sending organisations  
25 we know about, there is no evidence that Barnardo's ever

1 sought or thought about seeking legal advice as to  
2 whether it was enough to have a parent's consent or  
3 a child's consent.

4 MR WATSON: That is entirely correct, my Lady. It seems to  
5 have been taken as a given without that being analysed.

6 On that, your Ladyship may find that Barnardo's did  
7 seek the consent of parents and guardians prior to the  
8 migration of children and that Barnardo's sought the  
9 consent of children prior to migration, but the form in  
10 which Barnardo's sought the consent of parents was very  
11 wide-ranging at the point at which a child entered their  
12 care, supplemented by seeking consent prior to  
13 migration. But it can't be said that consent was given  
14 on an informed basis, given the absence of information  
15 on what parents or children were told and given the  
16 evidence that your Ladyship has heard on that.

17 I turn to record-keeping, my Lady. Barnardo's has  
18 previously addressed the extent of its record-keeping in  
19 previous Section 21 responses and in previous closing  
20 submissions, and I simply make reference to those for  
21 completeness.

22 Your Ladyship heard from Richard Simpson as to the  
23 extent of the records maintained, including a record for  
24 every child in care, records of medical examinations, of  
25 consent for migration and of visits to child migrants.

1 Barnardo's UK retains records for children relating to  
2 their time in the UK, and also holds records for  
3 children who were migrated to Canada. Barnardo's  
4 Australia holds the records for children while they were  
5 in Australia. Barnardo's provides the copies of records  
6 to former child migrants who request them, and provides  
7 a genealogy service for families attempting to trace  
8 their family members.

9 Turning then to aftercare, my Lady. Your Ladyship  
10 has heard evidence of the experiences of former migrants  
11 in how Barnardo's supported them after migration. Amy  
12 gave evidence that Barnardo's helped her to find places  
13 to board and to obtain work. She was still under their  
14 care until she was 21. When she was 19, she wrote to  
15 Barnardo's to ask their permission to get married and  
16 they gave her permission. However, she also gave  
17 evidence that Barnardo's disregarded her requests for  
18 information about her family and she expressed concerns  
19 that the records she was given were incomplete. She  
20 felt that Barnardo's had dealt with her in a cold  
21 manner.

22 Your Ladyship also heard the evidence of Margaret.  
23 Her evidence was that she had been given a job as a cook  
24 in a Barnardo's home. Her evidence was that her time  
25 with Barnardo's had been a positive experience for her.

1           My Lady, Richard Simpson gave evidence about  
2 Barnardo's aftercare service, Making Connections, and  
3 again your Ladyship has heard more extensive evidence on  
4 that on a previous occasion, and Making Connections  
5 makes records available in the same way to those who  
6 were migrated to Australia and to Canada. That service  
7 has provided an important central point of contact for  
8 those seeking information about their time in Barnardo's  
9 care and to support and to disclose poor care and abuse.  
10 The team of dedicated social workers at Making  
11 Connections offers support for as long as is required  
12 which, for some former residents, has been many years.

13           Your Ladyship may consider she can make a finding of  
14 fact that Barnardo's did maintain contact and support of  
15 migrants after migration and that their aftercare  
16 service, Making Connections, continues to provide  
17 assistance to former child migrants through access to  
18 their records.

19           In conclusion, my Lady, Barnardo's has throughout  
20 welcomed the Inquiry and tried to co-operate with it in  
21 every way possible. That includes responding to all  
22 requests from the Inquiry, making a number of written  
23 submissions, and in following closely all the evidence  
24 relating to Barnardo's. The Inquiry has all the  
25 information given by Barnardo's, both in writing and



1 orally, and has heard evidence from former child  
2 migrants.

3 This submission commenced with a restatement of the  
4 apology given by Richard Simpson which, in turn,  
5 reflected apologies previously given by Barnardo's.  
6 Barnardo's has sought to provide an accurate picture of  
7 their involvement with child migration, including the  
8 selection of children, the role of child migration in  
9 allowing them to take additional children into care in  
10 the UK, the obtaining of consent, the migration of  
11 children to centres in Canada and Australia prior to  
12 placement in homes, the extent and limitations of  
13 ongoing inspections of those placements, and their  
14 subsequent support of child migrants.

15 Barnardo's has sought to put child migration in its  
16 historical context but, again, as Richard Simpson said  
17 in his evidence, they have tried to understand it from  
18 that perspective; just to understand, not to forgive.  
19 But as he said, it is very, very difficult to understand  
20 on any level in 2020. The policy of child migration was  
21 wrong and Barnardo's apologises for its involvement in  
22 it.

23 We encourage your Ladyship to make such findings as  
24 she can to elucidate the reasons for it, to create  
25 a public record of what did happen and to serve as

1 a reminder and a lesson for future generations.

2 My Lady, that is the closing statement on behalf of  
3 Barnardo's, unless I can assist any further.

4 LADY SMITH: That is very helpful and I am very grateful to  
5 you, Mr Watson, for that.

6 MR WATSON: I am obliged, my Lady.

7 LADY SMITH: Before I move to the next set of submissions,  
8 I think we will have a short break again. It won't be  
9 too long, I hope, and then we will be on the home run  
10 for the rest of day.

11 (2.52 pm)

12 (A short break)

13 (3.05 pm)

14 LADY SMITH: I would now like to turn, please, to the  
15 closing submissions on behalf of the Good Shepherd  
16 Sisters. And I think, Mr Henry, you are here to speak  
17 for them, is that right?

18 MR HENRY: Indeed, my Lady. Thank you very much.

19 Closing submissions by MR HENRY on behalf of The Good  
20 Shepherd Sisters

21 MR HENRY: My Lady, thank you for the opportunity to make this  
22 closing statement. I shall endeavour to be brief.

23 Firstly, my Lady, on behalf of the Good Shepherd  
24 Sisters, and as stated in the order's opening statement  
25 made at the outset of this case study in December 2019,

1 the order is grateful for the opportunity to participate  
2 in the Inquiry's ongoing work, and seeks to re-emphasise  
3 its commitment to assisting the Inquiry in any way that  
4 it can.

5 The order was represented at the evidence in the  
6 current child migration case study.  
7 Sister Rosemary Kean, in her capacity as province leader of  
8 the order, gave evidence to the Inquiry on behalf of the order  
9 on 1 October 2020. In my submission, my Lady, Sister Rosemary  
10 Kean gave her evidence in the spirit of openness and  
11 sincerity which was referred to in the order's opening  
12 statement.

13 The order seeks to stress that knowing what it knows now,  
14 and in the absence of any records to the contrary, the order  
15 co-operated, engaged in and facilitated the  
16 child migration scheme in good faith.

17 LADY SMITH: Can you just help me a moment, Mr Henry. When  
18 you say they "co-operated, engaged in and facilitated it  
19 in good faith", are you really saying anything more than  
20 they didn't know that it was harmful, or are you seeking  
21 to persuade me that they had some basis on which to  
22 believe it was actually benefiting the children?

23 MR HENRY: What I am trying to state to the Inquiry,  
24 my Lady, is that they did not know that the scheme was  
25 harmful.

1           LADY SMITH: It's just that it's a phrase that trips off the  
2           tongue very easily, and when some people are talking  
3           about good faith they mean they had a factual basis on  
4           which they believed that matters were good. But really,  
5           like so often has happened in this case study, I think  
6           what we have actually seen is assumptions, things being  
7           taken on trust, but no actual knowledge of what was  
8           involved.

9           MR HENRY: Indeed, my Lady.

10          LADY SMITH: Thank you.

11          MR HENRY: My Lady, the order has the greatest sympathies  
12          for survivors who have suffered from abuse, and indeed  
13          for all those who feel let down by the care system. It  
14          is with the utmost regret that the order now believes  
15          that the child migration scheme was flawed from the  
16          outset and was inherently ill-conceived. The order  
17          fully recognises the role it played in the child  
18          migration scheme and apologises unreservedly for any  
19          harm and suffering experienced by the children who were  
20          sent to Australia.

21                 My Lady, the Good Shepherd Sisters, in their closing  
22          statement to phase one of the Inquiry, made clear they  
23          deplore abuse of children in any form. The order wishes  
24          to re-emphasise this statement in this current phase of  
25          the Inquiry's work.

1           My Lady, on behalf of the Good Shepherd Sisters,  
2           I conclude by reiterating their appreciation for the  
3           opportunity to participate in this Inquiry, and their hope  
4           and desire that it will go towards providing the  
5           survivors with the closure that they seek.

6           Unless I can assist your Ladyship further, that  
7           concludes the closing statement for the Good Shepherd  
8           Sisters.

9           LADY SMITH: I have no other questions on the Good Shepherd  
10          Sisters, Mr Henry.

11          I think you are here also to speak for the Bishops'  
12          Conference of Scotland?

13          MR HENRY: I am, my Lady.

14          LADY SMITH: When you are ready, I will hear you for them,  
15          please.

16          Closing submissions by MR HENRY on behalf of The Bishops'  
17          Conference of Scotland

18          MR HENRY: This statement is made on behalf of the Bishops'  
19          Conference of Scotland, a permanently constituted  
20          assembly of the bishops of the eight Scottish dioceses.

21          At the opening of this case study, my Lady, we  
22          referred to the submissions made by the Bishops'  
23          Conference in May 2017, that there were no documents in  
24          the archives of the Bishops' Conference about child  
25          migration. A search showed that only the archives of

1 the Archdiocese of St Andrews & Edinburgh contained any  
2 relevant material, comprising several letters relating  
3 to a scheme set up by the Australian Government to bring  
4 migrant children from the UK to Australia. The  
5 correspondence primarily consisted of letters from  
6 a representative of the Australian Church Hierarchy,  
7 asking the Scottish Hierarchy to promote the child  
8 migration scheme.

9 The report on child migration by Professors  
10 Constantine and Lynch observes that:

11 "Despite only normally having a remit for the care  
12 of children in England and Wales, the Catholic Child  
13 Welfare Council appears to have taken on  
14 an administrative role in relation to Scottish child  
15 migrants."

16 This finding appears to validate our impression that  
17 the Catholic Enquiry Office in Edinburgh, whose work was  
18 led by Father Patrick Quille, a priest of the  
19 Archdiocese of St Andrews & Edinburgh, was a branch of  
20 the London-based Australian Catholic Immigration  
21 Committee. My Lady, it is --

22 LADY SMITH: But, as you rightly say, he was a Scottish  
23 priest.

24 MR HENRY: He was indeed, my Lady.

25 LADY SMITH: And we don't seem to have any details of what

1           the arrangements were that were operating for the  
2           functioning of that office in conjunction with using  
3           Scottish priests, is that right?

4           MR HENRY: To the best of my knowledge, my Lady, that is  
5           indeed correct.

6           My Lady, it's my submission that the interests of  
7           the Scottish Hierarchy of the day would have been to  
8           ensure the appropriate religious formation of Catholic  
9           children. Responsibility for identifying children to  
10          participate in the migration scheme, acquiring consent  
11          and monitoring the care and welfare of children, would  
12          have lain with the religious institutions in conjunction  
13          with the statutory authorities.

14          My Lady, the Catholic Bishops of Scotland apologise  
15          for any harm caused to those who may have suffered in  
16          any way as a result of a migration scheme that was  
17          seriously misguided and flawed in both design and  
18          operation. The bishops continue to seek ways to support  
19          all survivors while acknowledging the suffering they  
20          have experienced and their bravery in coming forward.

21          My Lady, the Bishops' Conference of Scotland is  
22          grateful for this opportunity to participate in the  
23          Inquiry proceedings and will continue to endeavour to  
24          assist the Inquiry in any way that they can.

25          LADY SMITH: Mr Henry, just one question there. You tell me

1           the Catholic Bishops of Scotland apologise for any harm  
2           caused. Do they accept that harm was caused to children  
3           who are now adults as a result of the child migration  
4           scheme?

5       MR HENRY: Indeed, my Lady, they do accept that.

6       LADY SMITH: Thank you.

7       MR HENRY: Unless I can assist your Ladyship in any further  
8           way?

9       LADY SMITH: No, I have no further questions.

10      MR HENRY: Thank you, my Lady.

11      LADY SMITH: Thank you.

12                I would like now, please, to turn to the submissions  
13           for the Sisters of Nazareth. Mr Lindsay, I think you  
14           are here to speak for them, is that right?

15      MR LINDSAY: Yes, that is correct, my Lady.

16                Closing submissions by MR LINDSAY

17      MR LINDSAY: By way of introduction, the Sisters would wish  
18           to thank the Inquiry for the opportunity of  
19           participating in the child migration case study. The  
20           importance of this particular aspect of the care of  
21           children is recognised by the Sisters.

22                The Sisters endeavoured to fully co-operate with the  
23           Inquiry's investigation into the migration of children  
24           from Nazareth Houses and made available all surviving  
25           records which were relevant to witnesses.



1 Sister Anna-Maria Doolan and Mrs Karen Firmin-Cooper  
2 attended the Inquiry and gave oral evidence on behalf of  
3 the Sisters. The Sisters hope that the Inquiry found  
4 their oral evidence and the documentation provided by  
5 the Sisters to be of some assistance.

6 The Sisters submitted questions for many of the  
7 other witnesses with the aim of eliciting further  
8 evidence that would be of assistance to the Inquiry.  
9 Again, the Sisters trust that this engagement with the  
10 questioning of the witnesses was of assistance to the  
11 Inquiry.

12 In making their closing submissions to the Inquiry,  
13 the Sisters would wish to address the following five  
14 issues: firstly, the Sisters' apology to former child  
15 migrants; secondly, the deficiencies in the child  
16 migration scheme in respect of Scottish children  
17 migrated from Nazareth Houses in the United Kingdom;  
18 thirdly, the Sisters' contemporaneous knowledge of  
19 conditions in Australian institutions; fourthly, the  
20 impetus and motivations behind post-war child migration  
21 to Australia; and finally, the steps taken by the  
22 Sisters to make amends for the ill-treatment and abuse  
23 sustained by child migrants in Australia.

24 With regard to the steps taken to make amends, it is  
25 important to recognise at the outset that it isn't

1 possible to fully compensate the former child migrants  
2 for everything that they were deprived of as  
3 a consequence of their migration, and this was expressly  
4 recognised by Sister Anna in her oral evidence to the  
5 Inquiry.

6 Turning firstly to the apology. In their opening  
7 submissions at the outset of this case study, the  
8 Sisters made the following apology:

9 "We, the Sisters of Nazareth, sincerely apologise  
10 and are deeply saddened by the pain and distress  
11 suffered by so many men and women as a result of the  
12 child migration scheme. We wholeheartedly commit  
13 ourselves to continue to support those who contact us  
14 and warmly welcome each one to Nazareth House, where  
15 accommodation is provided if available."

16 This apology was given to the Australian Child  
17 Migrants Project in 2005 and also to the English  
18 Independent Inquiry into Child Sexual Abuse.

19 In her oral evidence to the Inquiry, Sister Anna  
20 repeated and expanded upon this apology. It was  
21 explicitly accepted that many of the child migrants had  
22 suffered abuse and ill-treatment as a consequence of  
23 their migration. The evidence of former child migrants  
24 is not disputed or challenged by the Sisters. And that  
25 is a point I would wish to emphasise, no challenge or

1 issue is taken with any of the evidence which the former  
2 child migrants gave about their experiences in  
3 Australia.

4 It was also accepted by Sister Anna that it is  
5 impossible to fully compensate the child migrants for  
6 everything they lost as a consequence of their  
7 migration. It is accepted that the child migrants were  
8 deprived of a relationship with their families, were  
9 deprived of their Scottish cultural identity, had their  
10 career prospects blighted by a poor education, and in  
11 many instances were robbed of their childhoods by the  
12 abuse and ill-treatment that they sustained in certain  
13 Australian institutions. These losses can never be  
14 fully compensated.

15 Nevertheless, it is important to recognise them, to  
16 apologise for them and to make amends insofar as it is  
17 possible to do so. This is recognised by the Sisters,  
18 which is why a full and unreserved apology has been  
19 given by the Sisters and why significant steps have been  
20 taken to try and make amends to the child migrants.

21 Finally, it is recognised that the failures of other  
22 religious and governmental bodies, while relevant to  
23 this Inquiry, does not detract from the need for the  
24 Sisters to offer an apology for their failings and to  
25 endeavour to make amends.

1           Turning to the second chapter of the closing  
2           submissions, dealing with the admitted deficiencies in  
3           the child migration scheme. The Sisters accept that the  
4           evidence establishes that there were significant  
5           failures and deficiencies in the following aspects of  
6           the child migration scheme. Firstly, there were no  
7           policies for selecting children to participate in this  
8           scheme. Secondly, there were a number of problems  
9           relating to the consent which was given for the  
10          migration. Thirdly, there was a complete failure to  
11          inspect institutions in Australia. Fourthly, there was  
12          a lack of supervision and aftercare of child migrants.  
13          And fifthly, there was inadequate record-keeping. Each  
14          of these failures is accepted and recognised to be  
15          a significant failure.

16          Dealing firstly with the selection of children. It  
17          is accepted by the Sisters that there were no formal  
18          procedures or policies for selecting children for  
19          migration. The selection of children appears to have  
20          been left to the discretion and judgment of the Superior  
21          who was in charge of the particular house in question.  
22          The Sisters accept that there should have been a formal  
23          written policy, applicable to all houses in Scotland,  
24          which set out criteria for the selection of children for  
25          migration. Even by the prevailing standards of the day,

1           it is accepted that such a policy should have been in  
2           place and enforced.

3           Again, that's a point they would wish to emphasise:  
4           it is accepted that by the prevailing standards of the  
5           1940s and 1950s, formal written policies should have  
6           been in place. It is acknowledged by the Sisters that  
7           as a consequence of the lack of such a policy, certain  
8           children who were unsuitable for migration were migrated  
9           to the dominions in circumstances where migration was  
10          not in the child's best interests. The clearest example  
11          of this is the case of Anne from Nazareth House  
12          Kilmarnock. Anne suffered from [REDACTED] and wore callipers  
13          on her legs, she was self-evidently unsuitable for  
14          migration to Australia yet was chosen and approved for  
15          migration by the Australian authorities. And,  
16          of course, there was the evidence that her callipers  
17          were taken away from her, and she had the long voyage to  
18          Australia without the aid of her callipers, and it is  
19          accepted that that in itself was a form of abuse and  
20          ill-treatment.

21          Moving on to consent which throws up a number of  
22          difficulties, and your Ladyship asked for submissions to  
23          be made on a number of aspects relating to consent, and  
24          the Sisters have endeavoured in this part of their  
25          closing submissions to be of assistance to

1           your Ladyship.

2           Dealing firstly with the applicable legislation, the  
3           Sisters accept that Professor Norrie in appendix 1 to  
4           his report accurately sets out the applicable  
5           legislation which provided a statutory power to consent  
6           to the migration of children in certain defined  
7           circumstances. In respect of the legislation, the  
8           Sisters have nothing to add to Professor Norrie's very  
9           careful analysis of the relevant statutory provisions.  
10          It is accepted that the learned professor identified all  
11          relevant legislation and his understanding of the effect  
12          of the provisions is correct.

13          Turning now to the common law insofar as it related  
14          to children and their ability to consent at common law,  
15          the Sisters accept that boys younger than 14 and girls  
16          younger than 12 did not have the requisite legal  
17          capacity to be able to consent to their migration. It  
18          just reflects the common law distinction between minors  
19          and pupils, and if you were a pupil you didn't have the  
20          requisite legal capacity to consent.

21          Turning to parental consent and the common law. The  
22          Sisters note Professor Norrie's evidence that reliance  
23          upon parental consent was "dubious at best". They also  
24          note his evidence that patria potestas is a general  
25          principle of Scots law which is non-delegable and cannot

1 be alienated or given away. The Sisters recognise  
2 Professor Norrie's expertise in this area of law and the  
3 high degree of scholarship in his report and oral  
4 evidence. Accordingly, they accept Professor Norrie's  
5 conclusions on the issue of the legality of parental  
6 consent and the potential legal problems associated with  
7 reliance upon it in the context of child migration.

8 LADY SMITH: And as I have already commented today, there is  
9 no evidence of them having thought about taking legal  
10 advice, or taking legal advice about this matter?

11 MR LINDSAY: Not on this particular matter. Later on in the  
12 closing submissions there is oblique reference to the  
13 legalities of some of the practices being considered.  
14 But your Ladyship is correct, it appears to have been  
15 overlooked by all of the sending authorities and indeed  
16 by the Secretary of State, which leads on to the whole  
17 issue of consent in loco parentis.

18 It follows that if reliance upon parental consent  
19 was legally dubious, the consent given by the Sisters  
20 in loco parentis would be no less problematic. However,  
21 it must be stressed that there appears to have been  
22 a widespread practice of institutions consenting  
23 in loco parentis when it was not possible to obtain the  
24 consent of the parents for whatever reason. And indeed  
25 Professor Lynch in his written answers to questions

1           asked on behalf of the Sisters confirmed that there was  
2           no evidence of the British or Australian Government  
3           authorities refusing to accept or otherwise questioning  
4           an LEM3 consent form which had been signed  
5           in loco parentis by one of the Sisters.

6           Dealing with informed consent, which it is accepted  
7           raises a number of difficulties, the Sisters also accept  
8           that in many instances informed consent was not obtained  
9           from the child and/or parents because they were not  
10          given accurate information about the conditions in the  
11          institutions in Australia to which they would be  
12          emigrating. Nor were they always made aware that  
13          migration would be permanent. There was some evidence  
14          about children being told about going on a holiday on  
15          an ocean liner, and indeed certain of the children were  
16          unaware of where Australia was and incorrectly believed  
17          that it was geographically close to Scotland and they  
18          could return to Scotland with ease.

19          So it's accepted that in many instances neither the  
20          parents nor the children, if they consented, that that  
21          consent could not really be viewed to be informed  
22          consent because they were given inadequate information  
23          to enable consent to be given on an informed basis, and  
24          that is accepted.

25          Turning now to the efforts made to obtain parental



1 consent. Again, at the outset it is accepted by the  
2 Sisters that there must be a question mark, at the very  
3 least, over whether sufficient efforts were always made  
4 to obtain parental consent. However, given the passage  
5 of time, the paucity of written records and the deaths  
6 of all of the Sisters who were personally involved in  
7 child migration, it is extremely difficult to ascertain  
8 the full extent of the efforts that were made by the  
9 Sisters to obtain parental consent to the migration of  
10 a child in their care. All that we have is hearsay  
11 evidence from Sister Anna that the Sisters had made  
12 efforts to locate parents and to obtain their consent to  
13 the proposed migration.

14 There is also the memorandum prepared by  
15 Dr Peter Hughes, which was prepared after a detailed  
16 examination of the Sisters' archives, that concludes  
17 that where parents or guardians of children were known  
18 to the Sisters, they were asked for their consent to the  
19 migration of their children. And just pausing there,  
20 the Sisters do recognise that when their archives have  
21 been examined, it has not always been easy to identify  
22 the basis upon which Dr Hughes expressed that opinion.  
23 But nevertheless, for what it's worth, there is the  
24 memorandum prepared by Dr Hughes.

25 There is also correspondence which, if accurate,

1 records considerable efforts being made by the Sisters  
2 to locate the mother of a child over a period of two  
3 years in order to obtain her consent to the migration of  
4 her child. This may well be representative of the  
5 practices adopted by the Sisters in respect of obtaining  
6 parental consent, and is certainly consistent with the  
7 hearsay evidence of other Sisters recollected by  
8 Sister Anna. Your Ladyship will recall that that  
9 related to two children in the Carlisle Nazareth House  
10 and the mother said she hadn't been asked for consent,  
11 and the Sisters' position was that they had endeavoured  
12 over a two-year period to contact her to obtain her  
13 consent.

14 Moving on. However, there was also evidence that  
15 some of the child migrants were incorrectly told that  
16 they were orphans and/or that their families did not  
17 wish to be in contact with them, and this was not the  
18 case. The Sisters are troubled by this evidence as they  
19 recognise the very real anguish this has caused the  
20 child migrants concerned, and the Sisters apologise to  
21 these child migrants for the inaccurate information that  
22 they were given about their families. All information  
23 provided to child migrants about their family is  
24 required to be correct and complete, and that is  
25 something that the Sisters fully accept, and they accept

1           that that was also the case in the 1940s and 1950s.

2           Moving on to the issue of contemporaneous legal  
3           advice. The only piece of evidence bearing upon the  
4           issue of legal advice and whether any advice was sought  
5           at the time is what is referenced in paragraph 30 of the  
6           Sisters' written submissions. There is some evidence of  
7           contemporaneous legal advice being sought about  
8           the legality of consenting in loco parentis to the  
9           migration of a child.

10           Page 22 BEW-75(r) is a letter from the Chief  
11           Immigration Officer of Australia to the Catholic  
12           Immigration Committee in the following terms:

13           "Thank you for your letter of 16 December 1950,  
14           having reference to signing of form of consent for  
15           prospective child migrants whose parents cannot be  
16           traced. This department would be prepared to accept the  
17           written consent of the Superior of the house in which  
18           the child migrant was living, provided the director of  
19           the Australian Catholic Immigration Committee London,  
20           through whom such applications would be cast to the  
21           office, can satisfy that all efforts to trace the  
22           child's parents had failed."

23           This appears to reflect the apparent widespread  
24           acceptance of the lawfulness of consent to migration  
25           being provided in loco parentis.

1           LADY SMITH: Are you suggesting that is legal advice,  
2           Mr Lindsay? This is given by an Australian immigration  
3           officer, and what I am talking about is the absence of  
4           legal advice from a Scots lawyer.

5           MR LINDSAY: Yes, your Ladyship is correct that there is no  
6           evidence, either in any of the documentation or in the  
7           oral evidence, that anyone sought advice from a Scottish  
8           lawyer at the time on the statutory and common law  
9           requirements for consent to child migration. This is  
10          the only document that the Sisters could find that was  
11          a contemporaneous consideration of the process of  
12          consent being given in loco parents, and that it would  
13          be acceptable to the Australian authorities, but it is  
14          accepted that it isn't legal advice from a Scots lawyer.

15          LADY SMITH: I have to say what worries me is that even if  
16          they can be excused for thinking or assuming that  
17          parental consent was enough, there is no sign of them  
18          asking themselves whether what they had to do if they  
19          couldn't get parental consent was take the child off the  
20          list of potential child migrants and keep them here  
21          because they didn't have parental consent. Instead,  
22          there is this sense of looking for something else  
23          because they had decided the child had to be migrated.

24          MR LINDSAY: I fear your Ladyship is correct. It does  
25          appear from the evidence that once the child was

1           selected for migration, efforts would be made to locate  
2           the parent to obtain parental consent. And I have  
3           already accepted difficulties that even if the consent  
4           was obtained, it may not have been sufficient lawful  
5           authority for the reasons Professor Norrie explains and  
6           it may not have been truly informed consent.

7           But your Ladyship is correct. If the parents could  
8           not be located, the next stage seems to have been for  
9           the Superior of the house to consent in loco parentis,  
10          and there doesn't appear to have been any  
11          reconsideration at that point in time about whether it  
12          would still be appropriate for the child to be migrated  
13          if the parent could not be contacted.

14       LADY SMITH: And of course we know they were putting  
15          themselves under other pressures from documents,  
16          for example, that refer to the need to select suitable  
17          girls, in particular, who would be a good advertisement  
18          for SON, and also the potential financial disaster at  
19          East Camberwell if they didn't fill the places there.

20       MR LINDSAY: Yes, that is all accepted, and I am going to  
21          expressly deal with --

22       LADY SMITH: I am sure you are. But I can see things like  
23          that would have made them most unwilling, having decided  
24          a particular child could be on the list, most unwilling  
25          to take the child off because they couldn't get parental

1 consent, so they had this fallback of the Superior's  
2 consent, as they saw it.

3 MR LINDSAY: Undoubtedly, my Lady. But equally there may --  
4 I suppose we are all speculating at the moment, but  
5 equally there may well have been a genuine belief that  
6 if migration was in the best interests of that child,  
7 and that Australia offered them a better future, that if  
8 the parent couldn't be located, and of course we heard  
9 evidence about the stigma of illegitimacy and so on  
10 and so forth and the problems that that caused for  
11 particularly fathers of illegitimate children coming  
12 forward and accepting their responsibilities, that there  
13 may well have been a benign belief that if it was truly  
14 in the best interests of the child, the simple fact of  
15 being unable to locate a parent shouldn't be an absolute  
16 barrier to that child being migrated.

17 But your Ladyship is correct that there may well  
18 have been other considerations and other points in time,  
19 and it does appear that the Sisters, like I suppose most  
20 of the other institutions involved, did have a concern  
21 for their own reputations when it came to the  
22 suitability of the child migrants.

23 Whether that concern for their own reputations and  
24 only sending good girls that would enhance the  
25 reputation of the order, whether that overlapped with

1 selecting the children that would cope with migration  
2 and would benefit from it, is an open question,  
3 I suppose. But it may be a little harsh on the Sisters  
4 to simply view those comments about reputation for being  
5 in their own interests. It may well have been also part  
6 of the desire to select children that could cope with  
7 the rigours of migration and could flourish in Australia  
8 and benefit from the migration.

9 Moving on and dealing with the next chapter,  
10 inspections. No inspections of any of the receiving  
11 institutions in Australia were carried out by the  
12 Sisters. The Sisters appear to have assumed that if the  
13 institutions were being managed by another Catholic  
14 order, the conditions and regime would be comparable  
15 with equivalent Scottish institutions. It is recognised  
16 and accepted that that doesn't automatically mean that  
17 conditions would have been acceptable, and what the  
18 children actually required, as it is accepted, at that  
19 time conditions in a lot of Scottish institutions fell  
20 far short of what was required.

21 But that assumption, while it may have been  
22 reasonable in respect of the Nazareth Houses at  
23 Geraldton and East Camberwell where conditions were  
24 broadly comparable to those in the Scottish houses, it  
25 certainly wasn't a reasonable assumption in respect of

1 the institutions administered by other Catholic orders.  
2 In particular, the conditions of the institutions  
3 administered by the Christian Brothers in Western  
4 Australia were wholly unacceptable even by the  
5 prevailing standards of the day, which means it is  
6 recognised and accepted by the Sisters that they should  
7 have taken some steps to satisfy themselves that the  
8 receiving institutions could provide the requisite  
9 standard of care to child migrants before arranging  
10 their migration to those institutions.

11 Just thinking of some examples of what might have  
12 been done. It would have been possible for a Sister  
13 from one of the Nazareth Houses in Australia to visit  
14 the other receiving institutions in Australia in order  
15 to ascertain the level of care provided. Such  
16 inspections may not have identified all deficiencies but  
17 they may have provided some additional safeguards, and  
18 of course it is recognised that in order to have been  
19 effective, the inspections would have to have focused on  
20 the children, including speaking to the children outwith  
21 the presence of their carers.

22 LADY SMITH: Do you think that the Christian Brothers,  
23 for example, in Australia, would have entertained the  
24 notion they should have their institutions inspected by  
25 Sisters from East Camberwell or Geraldton?



1 MR LINDSAY: I think that may have been problematic and  
2 I think a reasonable inference from the evidence would  
3 be it wouldn't be welcomed. I think the Sisters would  
4 have been afforded the courtesy of being a fellow  
5 Catholic order and probably would have been allowed on  
6 to the institutions.

7 LADY SMITH: What evidence do I have to enable me to draw  
8 that inference, Mr Lindsay? Simply that they were both  
9 Catholic orders?

10 MR LINDSAY: Yes, and there was evidence from certain of the  
11 witnesses that the orders viewed themselves as being  
12 part of one Catholic family and there was a degree of  
13 mutual respect and recognition amongst all of them. But  
14 your Ladyship is correct. If these inspections had been  
15 sought to be undertaken, as your Ladyship says, the  
16 Sisters travelling from Geraldton in Western Australia,  
17 they may well have been frustrated by the  
18 Christian Brothers.

19 LADY SMITH: It might equally be said, if that was something  
20 that was going to happen between the orders, it would  
21 have happened in Scotland between the Nazareth Houses  
22 and St Ninian's, because they were supplying St Ninian's  
23 with children, and terrible things were happening at  
24 St Ninian's, but there is no evidence of SON having even  
25 visited there to try and see what was happening.

1 MR LINDSAY: Yes. It is recognised by the Sisters that they  
2 should have done more at the time to ascertain the  
3 suitability of the receiving institutions, and  
4 reflecting upon it, one way that the Sisters thought  
5 they could have discharged that obligation would have  
6 been carrying out some inspections themselves.

7 But I recognise what my Lady has put to me, that  
8 even if the Sisters had wished to do that, it may not  
9 have been possible. The Brothers, if not refusing  
10 outright, may have restricted access in such a way that  
11 the inspection wouldn't have been able to uncover what  
12 was actually happening at Bindoon, Tardun and Clontarf.

13 LADY SMITH: Yes.

14 MR LINDSAY: Moving on to the next chapter, supervision and  
15 aftercare. Again it is accepted by the Sisters that  
16 there was very little supervision or aftercare of child  
17 migrants after they arrived in Australia. Really the  
18 only evidence we have of that relates to the half yearly  
19 reports in respect of child migrants in Nazareth House  
20 in East Camberwell, and they can be found at document  
21 BEW-89(r). For reasons that remain unclear, there is no  
22 record of any comparable reports relating to child  
23 migrants in Nazareth House in Geraldton. And there was  
24 also evidence of children in the Christian Brothers  
25 institutions being given style letters to copy which

1           falsely claimed that conditions were good, and they were  
2           asked to copy the letters and send them home to  
3           Scotland. Clearly such letters didn't constitute in any  
4           way an acceptable form of continuing supervision or  
5           aftercare.

6           Again it is accepted by the Sisters, and this is  
7           important, that even by the prevailing standards of the  
8           day, there should have been continuing supervision of  
9           child migrants' progress in Australia, and it wasn't  
10          sufficient to simply rely on the Australian Commonwealth  
11          and State authorities to do so. As the sending  
12          institution, the Sisters owed continuing obligations to  
13          the child migrants to monitor their progress in  
14          Australia. This could have been done by insisting that  
15          all child migrants regularly sent letters to the  
16          Nazareth House in Scotland from which they were sent and  
17          by the Sisters in Australia visiting the institutions  
18          with child migrants to check on their welfare. Such  
19          correspondence and inspections would not have prevented  
20          all the ill-treatment and abuse from occurring but it  
21          may have identified and prevented the more obvious and  
22          difficult to conceal examples that the Inquiry heard  
23          evidence about, but I do accept what your Ladyship says  
24          about the practicalities and limitations of inspections  
25          that might have been carried out by the Sisters.

1           LADY SMITH: They also looked at the distances that would  
2           have been involved, Mr Lindsay, the geography.

3           MR LINDSAY: Certainly these aren't inspections that could  
4           have been carried out more than on an annual basis. It  
5           is not suggested that inspections and letter writing  
6           would magically have made the child migration scheme  
7           acceptable or in the best interests of the child. What  
8           the Sisters have endeavoured to do is to go through all  
9           of their actions, identify their failings, and think  
10          about what they might have done at the time. It was  
11          accepted the inspections couldn't have been carried out  
12          on a frequent basis. I think the distances from  
13          Geraldton, which I think is just outside Perth, it would  
14          have been possible to have made an annual trip to the  
15          Christian Brothers institutions in Western Australia, if  
16          that were to have been permitted by the  
17          Christian Brothers. Clearly East Camberwell, over in  
18          Victoria, it would have been inconceivable in the 1940s  
19          and 50s, and certainly nobody would have been travelling  
20          to Tasmania to find out what was happening over there.

21          LADY SMITH: Thank you.

22          MR LINDSAY: Turning to inadequate record-keeping. Again it  
23          is accepted by the Sisters that they accept that their  
24          evidence establishes that their contemporaneous  
25          record-keeping was inadequate. There were examples in

1 the evidence of failures to update contact addresses for  
2 parents which made it difficult if not impossible to  
3 obtain parental consent. Just like the efforts made to  
4 obtain parental consent, it isn't possible to establish  
5 the extent of the contemporaneous records kept by the  
6 Sisters as many records were destroyed or lost when  
7 certain of the houses closed. Not all records held by  
8 the individual houses were transferred to the central  
9 archive in Hammersmith. Also, certain records, such as  
10 the consent forms, travelled with the child migrants and  
11 copies were not retained by the Sisters.

12 Nevertheless, from the evidence available, it is  
13 clear that relatively minimal records were kept in  
14 respect of each child, which simply recorded details  
15 such as dates of admission and dates of discharge,  
16 together with brief family details and a reason for  
17 their placement in the house. It is recognised that  
18 such brief records were inadequate and did not provide  
19 any documentary basis for selecting which children may  
20 have been suitable for child migration.

21 The other aspect of record-keeping that is relevant  
22 is the records which were sent with child migrants.  
23 Again, the evidence establishes that the child migrants  
24 were not always accompanied by adequate records.  
25 Medical and social work records do not appear to have

1 accompanied every child migrant. This made it more  
2 difficult for certain child migrants to receive the  
3 medical treatment and support that they required.

4 Also, basic biographical records, such as birth  
5 certificates, do not appear to have accompanied all  
6 child migrants. There is evidence this resulted in  
7 certain of the child migrants being uncertain about  
8 their age, unaware of the correct spelling of their  
9 surname, unaware of middle names and unaware of the  
10 names of their parents. Insofar as these records were  
11 in the possession and control of the Sisters, they  
12 should have accompanied the child migrants to Australia.

13 Turning to the third chapter, contemporaneous  
14 knowledge. In order to be fair to the reputations of  
15 the now deceased Sisters who were personally involved in  
16 child migration, the current Sisters consider it  
17 necessary to stress that the Inquiry heard no evidence  
18 of any actual contemporaneous knowledge on the part of  
19 the Sisters of the abuse and ill-treatment of child  
20 migrants in Australia. Nevertheless, the Sisters accept  
21 that their congregation ought reasonably to have known  
22 about some of the ill-treatment and abuse taking place  
23 in Australia if they had carried out the inspections,  
24 continuing supervision and aftercare that I have  
25 previously discussed.

1           Moving on to the fifth chapter, the impetus and  
2 motivations behind the resumption of child migration in  
3 the post-war period. I think the evidence is quite  
4 clear that the impetus for all of this came from the  
5 Catholic hierarchy in Australia and from the Australian  
6 Commonwealth Government. There doesn't appear to have  
7 been much enthusiasm amongst Scottish local authorities  
8 or the Scottish Office or indeed in the Home Office,  
9 although your Ladyship has heard evidence that the  
10 Commonwealth Relations Office perhaps was more in favour  
11 of it.

12           A number of different motivations were spoken to in  
13 evidence for the resumption of child migration.  
14 Firstly, there was a desire to protect and strengthen  
15 the Catholic faith in Australia. Secondly, there was  
16 a perceived need to build up the Australian population  
17 in the aftermath of the Second World War in accordance  
18 with the "white Australia" immigration policies and the  
19 general aim of developing and strengthening the  
20 British Empire. Thirdly, there was a belief that  
21 a fresh start in a new and prosperous country, such as  
22 Australia, would offer child migrants better prospects  
23 than remaining in Scotland. In respect of the third  
24 motivation, it is accepted by the Sisters that that  
25 wasn't necessarily true for all children and that

1           suitability for migration to Australia should have been  
2           assessed on an individual basis, and general assumptions  
3           about life being better in Australia should not have  
4           been relied upon and that should have been recognised at  
5           the time.

6           The Inquiry heard a lot of evidence about how the  
7           various Nazareth Houses in Scotland, and indeed in other  
8           parts of the United Kingdom and in Ireland, were visited  
9           in turn by Brother Conlon, Father Nicol and  
10          Father Stinson, who were very much evangelists for the  
11          benefits of child migration to Australia, and it is  
12          accepted by the Sisters that perhaps they were a little  
13          too trusting of the various claims that were made by  
14          these three individuals about the benefits of migration  
15          to Australia and how wonderful conditions were in  
16          Australia and that these shouldn't have been accepted at  
17          face value, and that the necessary checks and  
18          investigations should have been carried out before the  
19          Sisters agreed to participate in the migration of  
20          children in their care to Australia.

21          There was some evidence that given the prevailing  
22          attitudes in the 1940s and 50s, the Sisters, as a female  
23          order, may have felt some deference towards a male order  
24          such as the Christian Brothers. That may have played  
25          a role in what occurred, and may explain why a lot of



1           what these three individuals said appears to have been  
2           taken at face value, but the Sisters wouldn't seek to  
3           rely on that factor as a way of minimising their own  
4           culpability and responsibility for the children that  
5           were in their care.

6           Paragraph 49 of the written submissions deals with  
7           the issue that your Ladyship raised with me a few  
8           minutes ago about the grant from the Commonwealth  
9           Government to build the new wing at Nazareth House East  
10          Camberwell which had 150 places, and the funding was to  
11          facilitate child migration. That grant featured in the  
12          decisions made relating to child migration, and the  
13          Inquiry has seen documentary evidence that  
14          Father Stinson was using the prospects of the Sisters  
15          having to repay the substantial grant to the  
16          Commonwealth Government as a means of encouraging the  
17          Sisters to provide more child migrants for  
18          Nazareth House at East Camberwell.

19          Professor Lynch was asked about the legal mechanisms  
20          for all of that, and he explained that it was  
21          a condition of the grant that if the migration did not  
22          occur, then the grant could be repayable, but I don't  
23          think he was aware of any examples where that had  
24          actually happened. So whether it was just a theoretical  
25          legal risk or an actual material risk is perhaps

1 a little unclear. Although there is evidence of  
2 Father Stinson raising this as an issue with the Sisters  
3 and Father Stinson clearly using it as a means of  
4 encouraging the Sisters to identify more girls for  
5 migration, it wasn't clear from the evidence just what  
6 weight was attached to what Father Stinson was saying by  
7 the Sisters.

8 What I can say is, although it is unclear whether it  
9 was taken into account, if it was taken into account, it  
10 shouldn't have been taken into account, and the focus,  
11 the sole focus, should have been very squarely on what  
12 were the best interests of the child.

13 Turning to the final chapter of the submissions, the  
14 closing submissions on behalf of the Sisters, the steps  
15 taken to make amends. The Sisters recognise that  
16 an apology, while important, is not sufficient on its  
17 own. It is necessary to take action to provide redress  
18 for those who have suffered as a consequence of the  
19 child migration scheme, and they have sought to do so.  
20 In her oral evidence to the Inquiry, Sister Anna  
21 explained the actions taken by the Sisters to try and  
22 make amends insofar as it is possible, recognising that  
23 not everything the child migrants lost can be  
24 compensated for.

25 Then I set out in detail what the Sisters have

1           undertaken in order to try and make amends. Their  
2           collaboration with the Catholic Children's Society of  
3           Westminster, the funding of the Australian Child  
4           Migrants Project to the tune of 1.6 Australian dollars,  
5           of which 450,000 Australian dollars is provided in  
6           respect of children from Scotland. After that project  
7           ended, the Sisters have continued to work with the  
8           Catholic Children's Society and have continued to fund  
9           their work to the extent of £230,000 over a ten-year  
10          period.

11                 The Sisters have also contributed financially to  
12           Towards Healing, an Australian redress scheme, and that  
13           has involved various mediations, letters of apology and  
14           financial settlements. Sister Anna also confirmed that  
15           the Sisters always respond fully to any requests for  
16           information and documentation, they assist with  
17           arranging family reunions and provide accommodation for  
18           returning child migrants if requested to do so.

19                 In her evidence, Rosemary Keenan also gave evidence  
20           about the Sisters' assistance to former child migrants,  
21           and she believed that the Sisters were sincere in their  
22           efforts to assist and help former child migrants and had  
23           shown a genuine commitment to address the difficulties  
24           and problems encountered by these child migrants.

25                 Dr Keenan was also clear that the Sisters fully

1 understood the importance of the records to former child  
2 migrants, and had co-operated fully with Dr Keenan to  
3 locate the relevant records and to make them available  
4 to former child migrants. In particular, Dr Keenan  
5 praised the significant assistance provided by Sister  
6 John Ogilvie and Mother Bernard Mary and Mary Gandy, and  
7 her evidence also confirmed the Sisters have fully  
8 co-operated and made available all existing and relevant  
9 records.

10 In conclusion, the Sisters have listened with great  
11 care to the evidence given to this Inquiry by all of the  
12 former child migrants from Nazareth House in the  
13 United Kingdom. The Sisters are heartbroken, and  
14 I would emphasise that that is the Sisters' own word,  
15 they asked for that to be put in the submissions on  
16 their behalf. They are heartbroken by the distressing  
17 and upsetting evidence given by these witnesses, about  
18 their experiences in Australia, and on the effect their  
19 migration has had on their lives.

20 All of this evidence is accepted without challenge  
21 by the Sisters. They reiterate their commitment to  
22 helping former child migrants in whatever ways they can.

23 I just wish to conclude by thanking your Ladyship  
24 for the opportunity of making these closing submissions.  
25 Unless I can assist your Ladyship further with any

1           questions, those are the submissions on behalf of the  
2           Sisters of Nazareth.

3       LADY SMITH: I have no other questions, thank you,  
4           Mr Lindsay. I am very grateful to you for that detailed  
5           assistance, it is very helpful.

6           I would now like, if I may, to turn to the closing  
7           submissions for Quarriers. And I see, Ms Mitchell, you  
8           are here. I take it you are ready to deliver them?

9                           Closing submissions by MS MITCHELL

10       MS MITCHELL: Indeed, my Lady. I am obliged.

11           The emigration of children was one of William  
12           Quarrier's aims when establishing his work for the  
13           destitute children of Glasgow in the late Victorian era.  
14           The name of the organisation was recorded in the first  
15           Narrative of Facts in 1872 as the Orphan and Destitute  
16           Children's Emigration Homes.

17           When William Quarrier founded the organisation in  
18           1871, his objective was to provide a better life for  
19           children who were destitute or alone. The organisation  
20           provided homes and education for children. Migration to  
21           Canada and then later to Australia was viewed as  
22           providing the chance for a perceived better life away  
23           from the overcrowding and poverty of Scottish cities.  
24           The migration of children also gave the organisation the  
25           opportunity to care for more children within

1 Quarrier's Homes in Scotland, particularly during the  
2 earlier period when there was significant migration to  
3 Canada. At that time, Quarriers therefore had  
4 an organisational presumption towards the perceived  
5 benefits of migration.

6 While many, including Quarriers, believed at the  
7 time that migration offered children the chance of  
8 a better life, it is acknowledged that the policy of  
9 migration was ill-conceived and it was wrong to separate  
10 children from their families, community and identity.  
11 Quarriers apologises to the children who were migrated  
12 by the organisation. Quarriers recognises and regrets  
13 that some migrant children suffered cruelty and abuse.

14 Quarriers has sought to provide evidence in relation  
15 to the processes and procedures surrounding the  
16 migration of children from Quarriers' Homes within the  
17 Section 21 responses and the organisational witness  
18 statements. Quarriers has listened to the evidence  
19 provided to the Inquiry by migrants, descendants of  
20 migrants and experts. This evidence has been valuable  
21 in assisting Quarriers' understanding of the context,  
22 processes and impact of migration.

23 Processes and procedures. Quarriers acknowledges  
24 that there were shortcomings in the systems that were  
25 used to facilitate migration. The practices and

1 procedures in place relating to child migration did not  
2 provide sufficient safeguards to ensure that the  
3 original philanthropic aims of migration were properly  
4 met.

5 Firstly, if I may turn to Canada. Between 1872 and  
6 1938, Quarriers arranged for more than 7,000 children to  
7 be sent to Canada. Boys and girls were migrated,  
8 initially from toddlers up to the age of 16, but by 1924  
9 only children over 14 were migrated. The majority of  
10 those children were sent to Quarriers' Canadian  
11 receiving centre, Fairknowe in Brockville, Ontario.  
12 From there they were sent on to farms in the Canadian  
13 countryside. Children under 12 years old were adopted  
14 and worked as part of the family to earn their keep.  
15 Older children were indentured and paid a wage for their  
16 work. Migration to Canada stopped in 1938.

17 Selection of children. The presumption towards  
18 migration meant that many children were selected by  
19 Quarriers to go to Canada. There was, however,  
20 a process in place to assess the physical health of  
21 children and their suitability for migration as it was  
22 important to Quarriers that the children migrated would  
23 be productive citizens of their new country.

24 Consent. Quarriers' approach to obtaining consent  
25 to migrate children was based on its presumed

1 guardianship over the children in its care. When  
2 children were placed with Quarriers parents were  
3 required to sign documentation which, in the early  
4 period, stated that their child may be migrated by  
5 Quarriers, and later stated that Quarriers had the  
6 authority to discharge the child as they saw fit.

7 Views appear to have canvassed with children, albeit  
8 it is not clear that the views expressed were always  
9 acted upon. Pre-1930, other than explaining that  
10 the children may be migrated, there is no evidence of  
11 what parents or children were told. After 1930,  
12 Quarriers wrote to parents in limited terms indicating  
13 that their child may be migrated to Canada. When  
14 contact with a parent or parents was made views were  
15 taken into consideration, but where the child was over  
16 14, Quarriers considered it had a right to decide  
17 independent of the views of the parents.

18 Quarriers acknowledge the evidence provided to the  
19 Inquiry by Professor Norrie that the legal authority of  
20 voluntary organisations such as Quarriers to migrate  
21 children was debatable, and do not take issue with his  
22 view. What is clear is that Quarriers at the time  
23 believed they were acting lawfully in migrating  
24 children. As noted by Professor Norrie in his evidence,  
25 this assumption went unchallenged. Indeed, the belief



1           that legal authority to migrate children was held would  
2           have been strengthened by the British Government's  
3           approval of the policy of migrating children. There is  
4           no evidence that legal advice was sought.

5           Risk assessment. Efforts were made to ensure that  
6           the children were sent to a place which fitted  
7           Quarriers' philanthropic aims to provide a family and  
8           work for the migrant children. These efforts, whilst  
9           not robust in a modern setting, showed that there was  
10          a commitment to these aims. For example, effort was  
11          made to ensure that the child was sent to someone whose  
12          suitability could be vouched for by their local  
13          minister. A memorandum of conditions under which  
14          children were placed was entered into by the receiving  
15          farmer. There is evidence children were removed from  
16          farms considered to be inappropriate. Moreover, in due  
17          course, enquiries were carried out in relation to such  
18          things as the prospective sleeping arrangements of  
19          migrants and the day-to-day arrangements of the  
20          conditions of indenture.

21          Engagement and supervision of migrants once abroad.  
22          Quarriers always ensured that children being migrated to  
23          Canada were accompanied in transit. Mr Quarrier himself  
24          travelled on a number of occasions, as later did family  
25          members. When migrant children had been placed checks

1           were carried out, albeit, because of the geographical  
2           distances, these were irregular and insufficient. In  
3           time, there is evidence and that a record was kept of  
4           unsuitable places to send children which suggests that  
5           there was a response from Quarriers where it was  
6           considered that a placement did not meet safeguarding  
7           standards.

8           Whilst the supervision of children was not robust,  
9           there was at least an acknowledgement that Quarriers  
10          needed to provide aftercare once children were sent to  
11          farms.

12          Moving on to Australia. Between 1939 and 1963, 38  
13          children were migrated to Australia. In 1939, a party  
14          of Quarriers children was sent to Burnside Presbyterian  
15          Orphan Homes, Parramatta. The age of the children that  
16          went to Burnside was from ages 8 to 12.

17          In 1960, 1961 and 1963, further parties were sent to  
18          the Dhurringile Rural Training Farm, Victoria. The  
19          parties were migrated through the Church of Scotland  
20          Committee for Social Services. The age of the children  
21          that went to Dhurringile was between 8 and 15 years.

22          Inexplicably, the approach to migration of children  
23          to Australia in 1939 and the 1960s did not seem to have  
24          met the same standard of care and oversight as  
25          Quarriers' migration to Canada in the earlier period.

1            Selection of children. Children were nominated for  
2 migration to Australia by houseparents and chosen with  
3 reference to their medical history, educational aptitude  
4 and family ties. The children migrated to Burnside  
5 underwent medical examination before departure. The  
6 children migrated to Dhurringile underwent what was  
7 described as civil and medical exams. Records show that  
8 psychological reports were prepared for children  
9 selected to go to Dhurringile in 1960 and 1961.  
10 Regrettably, some children were migrated even where the  
11 psychologist's report considered a child unsuitable.  
12 Quarriers cannot, therefore, confirm that it always  
13 adhered to the views expressed by these professionals.

14            Consent. Consent was sought from parents in writing  
15 for migration to Australia. In 1939, Quarriers wrote to  
16 parents and the RSSPCC to seek agreement to specifically  
17 allow children to go to a Fairbridge Farm School.  
18 Consent was provided on this basis. It is not known why  
19 reference was made to Fairbridge Farm School as the  
20 children were migrated to Burnside Homes, Parramatta,  
21 New South Wales.

22            It appears where parents could not be contacted,  
23 Quarriers nonetheless provided consent to migration.  
24 For example, it is known that in 1960 three out of the  
25 eight children migrated had consent provided by a parent

1 and with the others consent was provided by Quarriers.

2 The records demonstrate that perhaps due to the  
3 historic organisational presumption towards migration,  
4 Quarriers was critical of those parents that did not  
5 want their child to be migrated. Letters were sent to  
6 parents advising that going to Australia was a "splendid  
7 opportunity", contrasting that unfavourably with the  
8 options of the child remaining in Scotland. There does  
9 not appear to be any formal recording of the child's  
10 views on migration or requesting their consent although  
11 it is understood that Quarriers did canvass the views of  
12 prospective migrants. Quarriers cannot identify what  
13 information was given to children about migration.

14 Quarriers acknowledge there is academic support for  
15 the view that parents could not consent to migration of  
16 children to Australia, nor did Quarriers have a legal  
17 basis to do so. As previously stated, no issue is taken  
18 with Professor Norrie's expert opinion on parental  
19 rights and duties. It is accepted that the legitimacy  
20 of consent was presumed rather than established. Again,  
21 there is no evidence that legal advice was sought.

22 Risk assessment. There is no record to indicate  
23 that any assessment was carried out to assess the  
24 suitability of Burnside Presbyterian Orphan Homes, North  
25 Parramatta, prior to migrant children being sent there.

1 Further, there is no evidence that there was any  
2 assessment or pre-placement checks made of Dhurringile  
3 before children were sent there. In both cases, it  
4 appears reliance was placed on the recommendation of  
5 those bodies encouraging the migration of children.  
6 There is no evidence that Quarriers undertook any role  
7 in supervising the care provided at Burnside once  
8 children had been placed there. Records indicate that  
9 a representative of Quarriers did visit Dhurringile in  
10 1961 but no further review of the establishment took  
11 place. It is accepted that this compares unfavourably  
12 with the checks that were carried out many years before  
13 when children were migrated to Canada.

14 Lack of engagement and supervision of migrants once  
15 abroad. Once children were migrated to Burnside, there  
16 does not seem to have been a system of engagement and  
17 supervision put in place. There was some degree of  
18 supervision of the children sent to Dhurringile in that  
19 reports of their development were provided to Quarriers,  
20 but again it is accepted that the supervision of  
21 children in Australia compares unfavourably with the  
22 earlier systems and procedures put in place in Canada.  
23 We assume this is a result of Quarriers viewing the  
24 legal responsibility for the care of the children to  
25 have passed to the Australian state once the children

1 had been migrated. There does not seem to have been any  
2 aftercare put in place for children migrated to  
3 Australia.

4 Post-migration. Since the 1990s, Quarriers has  
5 reached out to those migrated to Canada and their  
6 descendants. A number of reunions and visits have taken  
7 place. A descendant of a Canadian migrant child sat on  
8 Quarriers' board of trustees between 1998 and 2009.  
9 Quarriers has commissioned research into this aspect of  
10 its history to try and understand why and how migration  
11 took place.

12 Engagement with children migrated to Australia has  
13 been less extensive to date. However, Quarriers have  
14 taken steps more recently to run social media campaigns  
15 to encourage migrants and their descendants to contact  
16 Quarriers. Quarriers also make every effort to assist  
17 migrant children and their families trace their roots  
18 and to have access to their records. They encourage  
19 anyone who would like further informations to reach out  
20 to them.

21 Quarriers has sought to engage fully with the Child  
22 Abuse Inquiry. Every effort has been made to ensure  
23 that the Inquiry has as much information as Quarriers  
24 can find on the relevant issues. Quarriers has sought  
25 to participate fully with the Inquiry process and

1           representatives have been present when all evidence  
2           relevant to Quarriers has been heard. Quarriers  
3           considered it important in particular to listen to the  
4           evidence of former Quarriers migrants and their  
5           descendants, and have benefited from learning more about  
6           the context of migration from the expert evidence  
7           provided to the Inquiry.

8           Quarriers repeats its acknowledgement that  
9           the policy of child migration was misguided and wrong.  
10          Quarriers again acknowledges that some migrant children  
11          suffered physical and emotional cruelty and both  
12          physical and sexual abuse. Quarriers apologises to all  
13          the children who were migrated by the organisation.

14          Quarriers remains committed to providing the highest  
15          possible standards of care and support to vulnerable  
16          adults, children and young people who benefit from its  
17          services.

18          Unless there are any questions, my Lady, those are  
19          the closing submissions for Quarriers.

20          LADY SMITH: No more questions, Ms Mitchell. I am very  
21          grateful to you for this contribution, it is very  
22          helpful. Thank you for that.

23          Finally for today I would like, if possible, to turn  
24          to the closing submissions for the Royal Over-Seas  
25          League. I think that is Mr McGillivray I can spot down

1 the room. When you're ready, Mr McGillivray.

2 Closing submissions by MR MCGILLIVRAY

3 MR MCGILLIVRAY: Thank you, my Lady.

4 I am instructed to renew my client's acknowledgement  
5 of its role in child migration. My client recognises  
6 the wide-ranging and harmful, sometimes devastating,  
7 consequences of this activity upon migrated children and  
8 their families. I am expressly instructed to reiterate  
9 my client's unqualified apology to all those directly  
10 affected and their families. My client strongly  
11 supports the Inquiry's aim of raising opinion public  
12 awareness of this shameful chapter in our national  
13 history.

14 My client also wishes to pay tribute to the  
15 survivors' long struggle for justice with a special  
16 acknowledgement to those who have bravely come forward  
17 to tell their stories at this and other inquiries.

18 Turning to the evidence. I would submit, my Lady,  
19 that both my client's witnesses, Margaret  
20 Adrian-Vallance, its Director of Education Projects, and  
21 Dr Diana Owen, its former Director General, were both  
22 credible and reliable witnesses who were doing their  
23 best to assist this Inquiry's work.

24 My client accepts that there was a lack of proper  
25 internal governance of its child migration activities



1 from its Central Council supervision of Cyril Bavin, who  
2 was its Honourary Migration Secretary, and the  
3 Migration Bureau and Committee. And also that  
4 Mr Bavin's approach to procedures at the time was  
5 cavalier, the lack of record-keeping, monitoring and  
6 aftercare of the children who were migrated. My client  
7 accepts that it took on schemes that it had neither the  
8 expertise nor the resources to administer properly.

9 Professor Lynch makes the point that it is  
10 extraordinary that our client continued to support the  
11 migration of young people to Australia and New Zealand  
12 in the decades after the Second World War when there had  
13 been numerous reports identifying serious shortcomings  
14 in many institutions, including, for example,  
15 Dhurringile in Australia. Our client accepts that --  
16 LADY SMITH: I'm sorry to interrupt. There was also the  
17 point at which the New Zealand Government itself began  
18 to express severe reservations about the scheme.

19 MR MCGILLIVRAY: I think that's right, my Lady, in 1953,  
20 yes.

21 Our client accepts that Mr Bavin must have been  
22 aware of these reports, and he was a member of the  
23 Council of Voluntary Organisations for Child Emigration,  
24 he chaired that group in 1951/52. The group had been  
25 formed to consider the proposed new standards and

1 regulations for the emigration of children, so that is  
2 all accepted, my Lady.

3 Our client also accepts that the consistent and  
4 harrowing accounts of the experiences of boys and girls  
5 sent to institutions, to which the League also migrated  
6 children, demonstrates that abuse was likely to have  
7 been suffered by some of the children who were migrated.

8 Returning to Mr Bavin, our client accepts that his  
9 role throughout remains perplexing. He was a strong  
10 advocate of child migration, and it is submitted that  
11 the evidence before the Inquiry demonstrates this. He  
12 ignored indicators of its failings and he even continued  
13 to migrate children without the correct paperwork or  
14 without following the correct procedures. For example,  
15 there were children who were not CORB returnees but were  
16 listed as such, and there was evidence about  
17 a [REDACTED] who was migrated without the requisite  
18 consent from the Secretary of State on his LEM3 form.

19 Turning to records, Ms Adrian-Vallance provided  
20 a detailed account of searches made over decades at  
21 Over-Seas House, Park Place, London, and latterly  
22 Over-Seas House here in Edinburgh, for any documents  
23 relating to child migration. All references to child  
24 migration which have been located, in whatever format,  
25 have been assembled and shared with this and other

1           inquiries, and we submit that Ms Adrian-Vallance's  
2           evidence makes clear the challenges associated with this  
3           task.

4           I submit, my Lady, that the testimony of former  
5           child migrants illustrates eloquently the importance of  
6           retaining records and information, especially relating  
7           to family and history, and the importance of the work of  
8           the Child Migrants Trust in helping survivors to find  
9           their families. Our client accepts that it, along with  
10          others, failed to keep proper records relating to the  
11          migration of children.

12          I can report, my Lady, that our client has embarked  
13          on a process to begin to digitise the documents that it  
14          does have and to properly archive papers in the future  
15          to support former child migrants, their families and  
16          historians in their search for the truth about child  
17          migration in the 20th century. Dr Owen's successor at  
18          the League, Dr Annette Prandzioch, is also keen to  
19          progress this approach when COVID restrictions and  
20          funding allow.

21          I would add that my client now does everything they  
22          can to assist any migrant or their family that contacts  
23          them. The lack of records makes it difficult for my  
24          client to reach out to people who don't contact them  
25          because of the absence of records, but they do do what

1           they can to help.

2           Finally, my Lady, I would wish to pass on the thanks  
3           of my client and the witnesses for being permitted to be  
4           involved in this Inquiry and for all the help and  
5           support provided by the team throughout their  
6           involvement which has been much appreciated.

7           Unless your Ladyship has any questions, that is  
8           the end of my submissions.

9           LADY SMITH: I have no other questions. Thank you very  
10          much, Mr McGillivray.

11          I think that takes us to the end of proceeding for  
12          today, is that right, Mr MacAulay?

13          MR MACAULAY: I think so, my Lady. There is outstanding one  
14          read-in, but I think because the programme is not so  
15          heavy tomorrow we can probably hold that back until  
16          tomorrow when we have four contributions.

17          LADY SMITH: So we start at 10 o'clock?

18          MR MACAULAY: We start at 10 o'clock.

19          LADY SMITH: Is it the plan to have those four sets of  
20          submissions that are being delivered orally and then  
21          move to the final submission that is going to be read  
22          in?

23          MR MACAULAY: I think that would make sense.

24          LADY SMITH: Very well, I am happy with that.

25          I will rise now until tomorrow morning at



1	INDEX	
2		
3	Closing submissions by MR MACAULAY .....	1
4		
5	Closing submissions by MR SCOTT .....	64
6		
7	Closing submissions by MR GALE .....	87
8		
9	Closing submissions by MS LAWRIE .....	103
10		
11	Closing submissions by MS VAN DER .....	110
12	WESTHUIZEN	
13	Closing submissions by MR WATSON on .....	112
14	behalf of The Christian	
15	Brothers	
16	Closing submissions by MR WATSON on .....	121
17	behalf of Barnardo's	
18		
19	Closing submissions by MR HENRY on .....	130
20	behalf of The Good Shepherd	
21	Sisters	
22		
23	Closing submissions by MR HENRY on .....	133
24	behalf of The Bishops'	
25	Conference of Scotland	

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

Closing submissions by MR LINDSAY ..... 136

Closing submissions by MS MITCHELL ..... 165

Closing submissions by MR ..... 176

MCGILLIVRAY