

COMMISSION TO INQUIRE INTO CHILD ABUSE
PUBLIC HEARING

HELD AT HERBERT PARK HOTEL
BALLSBRIDGE, DUBLIN 4

ON WEDNESDAY, 24TH MAY 2006 - DAY 221A

EVIDENCE OF BR. SEAMUS NOLAN

BEFORE:

MR. JUSTICE SEÁN RYAN
CHAIRPERSON OF THE INQUIRY

and

MS. MARIAN SHANLEY

MR. FRED LOWE

221A

I hereby certify the following to be a true and accurate transcript of my shorthand notes of the evidence in the above-named action.

MEMBERS OF THE COMMISSION PRESENT:

REGISTRAR TO INVESTIGATION COMMITTEE: MR. B. REEDY

COUNSEL FOR THE COMMISSION: MR. N. MacMAHON SC
MR. P. WARD BL

Instructed by: MS. E. McHUGH

FOR THE CHRISTIAN BROTHERS: MR. P. HANRATTY SC
MS. S. MOORHEAD BL

Instructed by: MR. P. LANKFORD
MAXWELL WELDON & DARLEY

FOR THE DEPT. OF EDUCATION: MR. C. DIGNAM BL

MR. M. CONNAUGHTON SC
MR. M. DOWLING BL

Instructed by: LAVELLE COLEMAN

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1 THE HEARING COMMENCED, AS FOLLOWS, ON WEDNESDAY, 24TH
2 MAY 2006:

3
4 THE CHAIRPERSON: Good morning. Yes,
5 Mr. Ward.

6 MR. WARD: Good morning, Mr. Chairman,
7 members of the Committee.

8 This morning we are moving on to the module dealing
9 with St. Joseph's Industrial School in Tralee. I would
10 just like to re-introduce the Committee to Br. Seamus
11 Nolan.

12 THE CHAIRPERSON: Yes. Now, Mr. Reedy.

13
14 BR. SEAMUS NOLAN, HAVING BEEN SWORN, WAS QUESTIONED, AS
15 FOLLOWS, BY THE COMMISSION:

16
17 THE CHAIRPERSON: Thank you very much. Sit
18 down, please. Brother.

19 MR. WARD: Good morning, Br. Nolan.

20 A. Good morning.

21 1 Q. I understand that you are a member of the Provincial
22 Leadership team of St. Helen's province?

23 A. That's correct.

24 2 Q. I understand that the province is divided into two
25 sections, one dealing with the north and one dealing
26 with the southern side?

27 A. That's right.

28 3 Q. Can you tell me, Brother, you were here evidence giving
29 evidence on January 10th, I understand that you

1 prepared the submission on behalf of the Christian
2 Brothers for the St. Joseph's Industrial School,
3 Trallee?

4 A. I did, yes.

5 4 Q. I understand that you attended all the private hearings
6 in relation to Phase II?

7 A. I did.

8 5 Q. And that you have never yourself worked in any
9 industrial schools?

10 A. No.

11 MR. WARD: I wonder could you just
12 answer some questions from
13 my colleagues.

14 A. Certainly.

15

16 END OF QUESTIONING OF BR. NOLAN BY THE COMMISSION

17

18 THE CHAIRPERSON: Now, Mr. Connaughton. Good
19 morning, yes.

20

21 BR. SEAMUS NOLAN WAS THEN EXAMINED, AS FOLLOWS, BY

22 MR. CONNAUGHTON:

23

24 6 Q. MR. CONNAUGHTON: Good morning, Br. Nolan.
25 Mark Connaughton is my name
26 and I appear with Mr. Marcus Dowling, instructed by
27 Lavelle Coleman, solicitors. I don't appear in this
28 phase on behalf of any individual former pupil of the
29 institution but I do have a number of questions that I

1 want to ask you in a discrete number of areas. I will
2 try and avoid, as far as possible, going over ground
3 that was already covered when you were examined by
4 Mr. McGovern in January 2006. I wanted to commence, if
5 I may, by asking you some general questions about the
6 institution. Like yourself, these questions are
7 largely driven by the documentary record that appears
8 and the Visitation Reports and such like.

9
10 The first question I wanted to put to you is this: That
11 although your submission, and indeed your own testimony
12 to the Commission in the earlier phase, is permeated
13 with statements about the context of the time and the
14 limited resources and we all understand that, there
15 does appear to be a common theme throughout the
16 documentation that there was a drive on the part of the
17 Brothers to maintain numbers in the institution, to
18 keep numbers up in the institution and I wonder would
19 whether you would comment about that firstly?

20 A. Yes. The word drive, I think, is a little bit too
21 strong. Certainly there was an obsession with numbers,
22 because the numbers happened to be related to the
23 funding.

24 7 Q. Yes.

25 A. So any time there was a drop in numbers there was a
26 fear that the type of provision couldn't continue to be
27 given. Again, usually through the group managers
28 group, that an effort was made to the Department. Now,
29 once they went to the managers group, they were dealing

1 with all the industrial schools, so that this was a
2 fear that the ran right through all the industrial
3 schools. The danger that if numbers fell, unless there
4 was a rise in the grants available that they couldn't
5 continue with the provision, whatever it was at the
6 time, but they couldn't even maintain that.

7 8 Q. Brother, I would happily accept the substitution of the
8 word obsession for drive. I suppose what struck me,
9 Brother, about it was this, that nowhere -- you can
10 correct me if I am mistaken on this, nowhere in the
11 records do I see any reference to or consideration
12 given to the optimum number of boys for the institution
13 by reference to the available resources. It is the
14 other way around. We have certification for -- and I
15 have forgotten the numbers, but we have certification
16 for X number and we must try and keep it up to that
17 number.

18
19 I could give you illustrations but in deference to you
20 you have already agreed in general with the earlier
21 point I made to you. But there are references
22 throughout, I can think of one instantly and it is in
23 the little booklet from the 1940's where there was a
24 reference to the numbers that were certified and then
25 there was a request to try and push the boat out a
26 little bit further and then there was talk about
27 reallocating rooms. I do appreciate that it was said
28 -- I think there was talk about using the infirmary and
29 the clarification was given that it was not intended

1 not to have an infirmary, there was going to use
2 another room for the infirmary. But nevertheless,
3 within the restrictions of the available space to try
4 and get a few extra in.

5
6 I just wonder whether you would like to make any
7 comment or observation on my suggestion to you that
8 there appears to be no focus at all on what were the
9 optimum number of boys be relative to the available
10 resources in terms of Brothers and other physical
11 resources?

12 A. Well, I only came across one reference to an optimum
13 number and, as far as I can recall, it was in manager's
14 meetings and, as far as I can recall now, it was for
15 one of the smaller places, that would have, let's say,
16 about 150. The number was a little bit above that.
17 Now, how official that particular type of estimate was,
18 it is impossible to say now. But they always felt that
19 somehow the optimum number was around the certified
20 number.

21
22 Strangely enough, Department of Education thinking,
23 very often criticised, but I am speaking now in
24 relation to other areas rather than industrial schools
25 and even right down to the present day, that they
26 somehow in the grants that they offer seem to have
27 fixed on a figure that's about right. And I would feel
28 that the optimum number then was the certified number.

29 9 Q. I wonder how that could be, and I suppose what drives

1 me in relation to that particular issue is this: That
2 throughout the course of the Visitation Reports for
3 this particular institution we have fairly forthright
4 comments by the visitor in respect of, I won't say the
5 utility, the degree to which certain of the staff were
6 actually involved in running the institution. And we
7 have also had anecdotal references in the evidence
8 given by Brothers at an earlier stage of these
9 proceedings about how the younger Brothers at the time
10 would have felt quite put upon by the inactivity of the
11 older Brothers in relation to the work of the
12 institution.

13
14 What I see from the documentation is that the staff
15 were very under resourced, or to put it another way,
16 the place was very understaffed during the relevant
17 period. Would you agree with me about that?

18 A. I would have to admit that the younger people were
19 certainly worked very, very heavily. Unfair to say
20 worked, they worked, they did it willingly.
21 Unfortunately the older people, it varied in places and
22 there were times in Tralee when the older people were
23 doing very, very little to help the younger ones.

24 10 Q. I suppose the more general point, I am not interested
25 in setting up a conflict between those people, but the
26 more general point is that the place was under
27 resourced in staff terms, in practical terms it was
28 under resourced?

29 A. Yes, it would be, but it also then was, according to

1 the figures of the times, getting of younger people who
2 were teachers, there were only a certain amount of
3 teachers allowed per number in the school.

4 11 Q. Oh, I understand that.

5 A. And that certainly guided the choice of the primary
6 school staff who were -- after all they were the main
7 staff of the whole institution. Now, now and again
8 they did try by means of supernumerary someone who they
9 had to spare, sometimes a retired person, but an active
10 one. And that brought another person into the type of
11 pool that they did all the daily work rather than just
12 a certain amount of it. But they were stretched all
13 the time, there is no doubt about that.

14 12 Q. Without dwelling too long on the subject, I want to
15 move on, but without dwelling too long, would you agree
16 with me that certification was a matter, while the cert
17 certificate was given by the Department, the
18 application in terms of numbers would have come from
19 the Congregation, come from the Brothers running the
20 school, it was the Department?

21 A. Sorry, the allocation of staff numbers?

22 13 Q. No, no, the actual numbers that the school would be
23 certified for, the Industrial School would be certified
24 for, that was a matter for the Brothers to determine
25 what application they would make in that regard?

26 A. Oh, it was yes, then the figured
27 offered. . . (INTERJECTION).

28 14 Q. If they had said, "look, we can't run an industrial
29 school efficiently, providing the kind of service that

1 needs to be provided to boys, except in the context of
2 50 or 60 or whatever." That doesn't seem to have ever
3 come into the equation as a consideration. I am sorry,
4 subject to the one point that you have mentioned that
5 it was raised at one stage, but that was at the level
6 of 150; isn't that right?

7 A. It was, yeah.

8 15 Q. I don't want to be applying too much retrospective
9 vision to this particular subject, but we know that in
10 1970 or thereabouts there was a sea change in relation
11 to how the whole area of residential care would be
12 dealt with for boys in such institutions; but I think
13 the idea of smaller numbers in these types of
14 institutions was raised as far back as the 1940's,
15 isn't that right, I don't mean in this particular
16 school but the idea was raised?

17 A. Oh, yes, the whole idea was there, going back to the
18 Cussen Report, even before that. Nothing was done of
19 course on a national scale until after the war, when
20 conditions were better. Within the industrial schools,
21 I think, first of all, there was a feeling that they
22 could survive and it was better for that type of
23 institution to survive. But by the 1960's, first of
24 all, outside of the industrial school system they moved
25 to another one, smaller units in various forms. These
26 were certainly coming in.

27
28 There is no doubt that around the time that the
29 industrial schools run by the Christian Brothers were

1 about to be closed that it was an inability to move to
2 the other system on account of funding, that brought
3 about the closure. They felt they could have survived,
4 I think, they would have made a wider effort than was
5 done. For instance, in Salthill there was a change,
6 they were plans for Letterfrack.

7
8 Now, it just happens that there were no plans, to my
9 knowledge, for the school we are speaking about,
10 St. Joseph's, Tralee, or any of the southern ones for
11 that matter. But gradually the word got through and I
12 felt they weren't in a position to change. It was
13 either close or get permission for such a drastic
14 change that would mean complete rebuilding, and funding
15 that would have been out of our reach would have had to
16 have come from the State.

17 16 Q. THE CHAIRPERSON: Sorry, Brother, can you
18 explain about that a bit
19 more, when you say they weren't in a position to
20 change?

21 A. In this way that it would have meant a large outlay on
22 building, at the very lowest level, which wouldn't have
23 been a complete change, was to divide the institutions
24 they had into smaller units. The outlay that would
25 have been quite large. I think they would not have
26 been listened to on a national level there, because I
27 think the move was a way, not for changing what we had,
28 but for making completely new buildings.

29 17 Q. THE CHAIRPERSON: A fresh start?

1 A. A fresh start. I think they were caught in a trap that
2 may have stayed over long in a big large building by
3 now becoming old-fashioned buildings, they had to be
4 changed anyway. I think rather than change, one went
5 ahead and another failed in its efforts, that's
6 Letterfrack, and the others had no option but to close.
7 By but then it was certainly realised that the smaller
8 units were the ideal answer to this particular problem.

9 18 Q. MR. CONNAUGHTON: I suppose because it is
10 going to be part of a
11 submission that will be made to Commission, I should
12 put it to you and ask you to comment, that there was a
13 failing on the part of the Congregation, on the part of
14 the Brothers to give consideration to the issue of
15 optimum numbers of pupils by reference to resources
16 during this period?

17 A. Well, it can certainly be interpreted in that light
18 now, but I think at the time it was a case it was
19 survival with the conditions that were there.

20 19 Q. Would you agree with me that it was an attitude or an
21 approach that in turn could lend itself to abuses of
22 the system?

23 A. It could lend itself to it, you know.

24 20 Q. Yes. And that there is at least some anecdotal
25 evidence of that actually occurring in this particular
26 institution and I think it was a subject that was dealt
27 it extensively in the exchange between your good self
28 and Mr. McGovern in January 2006. I am referring there
29 in particular to the matter that I think is dealt with

1 in the 1952 Visitation Report and Mr. McGovern dealt
2 extensively with this at the time.

3
4 I think as part of your answer on that occasion you
5 outlined to Mr. McGovern, "yes, this did seem to have
6 occurred and it was something that the visitor was
7 quite cross about and quite definite about in terms of
8 his criticism of what had apparently occurred."

9
10 But in dealing with it, I think, at that time the
11 impression I got from your evidence was that, in fact,
12 this was a one off and that the Resident Manager at the
13 time in correspondence -- I think it didn't get dealt
14 with for about a year, but in
15 correspondence... (INTERJECTION)

16 A. Yes, I have the case in point all right.

17 21 Q. You know what I am referring back to?

18 A. I know what you are referring to, yeah.

19 22 Q. And that the Resident Manager at the time had given a
20 fairly comprehensive response in relation to this and
21 that was really the end of the matter?

22 A. It was, yes, but what I forgot to mention on that
23 occasion was it took so long for the question to arise
24 and the reason for that was there were internal
25 complaints in the school staff itself, or more
26 community than school, and they waited for the
27 visitation time to make a complaint.

28
29 Now, there is a system going at that time, visitors

1 went around the country, public transport, when they
2 returned to base there were meetings held. It happened
3 in this particular case that it was a year and a half
4 later, I think, before that response came from the
5 Resident Manager was accepted.

6
7 There was another reason, I mentioned that time that
8 the actual Council at the time had two members, I
9 mentioned two at the time, I mentioned that some people
10 were sick at the time and not functioning. So there
11 was a particularly long delay there. Partly through
12 following the Christian Brothers system and partly
13 because the people dealing with it just happened to
14 have certain restrictions on their own efficiency at
15 time.

16
17 What I forgot to mention to though, it was a question
18 of boy who had been admitted whose age was incorrect.

19 23 Q. I think it was more than one boy?

20 A. I was never certain actually was it the three -- there
21 were three in the family and the only one I checked on
22 was the oldest one of the three. What would have
23 happened, of course, if that hadn't sorted itself out
24 by the people leaving in account of home circumstances
25 improving was by ministerial order this could have been
26 settled when the time for discharge came. You know, it
27 didn't look as bad in fact, as it would in print, you
28 know.

29 24 Q. Yes. But I think in response to Mr. McGovern -- and

1 for the Commission and indeed anybody else's benefit I
2 am referring to the discussion that took place between
3 pages 42 and 46 of the transcript on that particular
4 day. Mr. McGovern asked you in particular at the time,
5 I think what you had said was your general answer was,
6 you know, Mr. McGovern had put to you that if what
7 occurred had taken place, I am on page 46, then this
8 was something quite serious and you said:

9 "Yes, if that was true that would
10 certainly be serious."

11 You said:

12 "when the Provincial got around to
13 taking it seriously it was a long time
14 afterwards it had been correct. In the
15 meantime this particular case had been
16 solved by the fact that the three
17 children had been discharged again to
18 their parents whose circumstances had
19 improved at that time."

20 I think your point there was that they weren't detained
21 over the time limits --

22 A. Oh, no.

23 Q. -- so in practical terms that didn't give rise to a
24 difficulty. Mr. McGovern went on to ask:

25 "Was there any audit done by the
26 Christian Brothers to check whether
27 this had happened in relation to other
28 children?"

29 Your answer was:

"Not to my knowledge, but they
certainly checked this one out, there
is no doubt without that."

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You were then asked:

"Do you think if it happened in relation to other children it would be prudent for the Christian Brothers to check whether it might have happened?"

I think you then said you had an understanding at the time that once the committal order was filled that it was untouchable and that in effect it was assumed that everything that was done through the courts was done correctly.

But as I understand the facts in relation to this particular instance, the suspicion or one suspicion that might arise in relation to this was not so much that court documents were falsified by court officers but that documents may have been falsified in a more local location?

A. Yes. Well, what I said on the day, that once the court order was made it was absolutely untouchable. So much so that in the example that he gave about inquiring from the Department of Education, I felt it more or less fobbed off and told don't touch these, they are untouchable. What he was trespassing on there was the border between the Department of Education and the Department of Justice. So, there is a certain untouchable area.

1 Now, whether we would have, as Christian Brothers in an
2 Order, which would enter into that or not, I think we
3 would have thought that time better to stay away from
4 that area and let it -- if things happen they will be
5 discovered and then there is matter for some form of an
6 appeal .

7
8 By the way, the appeal would have had to go from the
9 Christian Brothers to the Department of Education.
10 Beyond having boys committed to the institution,
11 meeting them on the premises or at the door the
12 connection with the Department of Justice stopped there
13 until the moment of discharge and there were customs
14 and methods of approach and so on.

15 26 Q. Brother, I don't want to unfairly fix you with a
16 broader meaning to a statement that you may have made
17 somewhat lightly. But a moment ago you said that, "if
18 things happen they will be discovered." Now, that
19 suggests -- and I better put it to you because it is
20 going to arise in the context of other matters, that
21 suggests that you wouldn't, your predecessors wouldn't
22 have been minded to proactively investigate matters and
23 if something was wrong sure wouldn't it eventually
24 emerge. Now, I wonder whether that's what you intended
25 to say when you said, "if things happen they will be
26 discovered"?

27 A. Yeah. Well there was a failsafe one and it actually
28 arose in this case. If it were a case simply of age,
29 then they were two checks, first one, which wasn't

1 checked, was accepted was actually the court order.
2 Then there was the question of getting on the roll of
3 the primary school that was another admission. So if
4 there was a discrepancy, as appeared in this case, it
5 was there to be checked at that time.

6 27 Q. But weren't there other instances of, I appreciate
7 this... (INTERJECTION)?

8 THE CHAIRPERSON: Sorry, Mr. Connaughton.

9 Could I just ask you, it is
10 a bit mysterious for most people and, indeed to an
11 extent with me, I am not absolutely sure if I can
12 recall like that what's on page 42 of the transcripts.
13 Can you just fill us in a little bit on that. The
14 essential issue was the child's age was misstated in
15 circumstances which enabled him to come within the
16 capitulation; is that right?

17 MR. CONNAUGHTON: Yes.

18 THE CHAIRPERSON: Just tell us.

19 MR. CONNAUGHTON: Yes, that is correct,
20 Chairman, but the manner in
21 which it is dealt with in the Visitation Report raises
22 it to a higher level.

23 THE CHAIRPERSON: Before we get to any higher
24 level, let's deal with the
25 lower level, which is what happened.

26 MR. CONNAUGHTON: That is it at its lower
27 level. Perhaps, Chairman,
28 I was mistaken, I didn't want to be delaying unduly by
29 going over territory.

1 THE CHAIRPERSON: I understand. But a number
2 of children were admitted;
3 isn't that right?

4 MR. CONNAUGHTON: Three members of one
5 family.

6 THE CHAIRPERSON: Three members of one
7 family, on foot of a court
8 order?

9 MR. CONNAUGHTON: Correct.

10 THE CHAIRPERSON: So they arrived down. And
11 the age, one of them.

12 MR. CONNAUGHTON: The age of at least one of
13 them was misstated to be at
14 an older age than the child actually was.

15 28 Q. THE CHAIRPERSON: Because he therefore came
16 up into the -- the age was
17 misstated so as to bring the child within the category
18 of chargeable or payable by the State; is that correct?

19 A. No, there was no question of that, just a mistake. The
20 boy was about 12, I think, or he was put down as 12,
21 where he was 13. He would have got the grant anyway.

22 MR. CONNAUGHTON: No, I am mistaken. Yes,
23 quite correct. In the
24 Visitation Report in question, June -- 1/4/1952, it is
25 in the little booklet of documents that have been
26 handed in. The second page of that says that the
27 visitor's report is that:

28 Mr. A, local inspector of the NSPCC,
29 was having boys committed at exactly
one year under their true age. When
this complaint was made to me...."

1

2

It is in the second page of the file.

3

29 Q.

THE CHAIRPERSON:

The result was the spent a

4

further year, they had

5

spent too long in the institution, when they reached 16

6

they wouldn't get out until they were aged 17?

7

A.

Yes, that's when a ministerial order would have to be made.

8

9

30 Q.

THE CHAIRPERSON:

Exactly.

10

A.

It didn't happen so I just presumed that it would have happened if it had come to that.

11

12

THE CHAIRPERSON:

What Mr. Connaughton is

13

exploring is how this came

14

to light and whether that was an indication of a system

15

failure or a one off. That is essentially it?

16

MR. CONNAUGHTON:

That's essentially it.

17

THE CHAIRPERSON:

Thank you for clarifying that.

18

19

MR. CONNAUGHTON:

I am sorry, Chairman, for

20

taking too much for granted

21

early. In relation to that particular paragraph, I

22

don't know whether you have the benefit of it front of

23

you or not.

24

THE CHAIRPERSON:

I can find it.

25

31 Q.

MR. CONNAUGHTON:

You should have a little

26

booklet that has been

27

handed to you?

28

A.

Oh I have, 52, isn't it?

29

THE CHAIRPERSON:

This is your booklet.

1 32 Q. MR. CONNAUGHTON: Yes. The third tab is
2 exclusively confined to
3 Visitation Reports and if you could go to the
4 Visitation Report for 1952 and then go to the second
5 page of that.

6 A. Yes.

7 33 Q. The second point that I just wanted to touch upon very
8 briefly in relation to this, is that in the last
9 sentence:

10 "On being asked a third time, the
11 bursar told him that he felt compelled
12 to protest."

13 That is being asked for the third time by the
14 gentleman, the inspector of the NSPCC.

15
16 "Told him that he compelled to protest
17 against this payment."

18
19 THE CHAIRPERSON: Just slow down a bit,
20 Mr. Connaughton.

21 Ms. McCarthy takes the thing down whether you are
22 reading it from a document or not. Anyway, it is much
23 more comfortable to receive it if you read it slowly.
24 Thank you.

25 34 Q. MR. CONNAUGHTON: I think I should just read
26 the full paragraph:

27 "Mr. A, local inspector of the NSPCC
28 was having boys committed at exactly
29 one year under their true age. When
this complaint was made to me I
inquired what interest this gentleman
had in this falsification of documents

1 and found that the bursar had asked
2 himself the same question earlier in
3 the year, especially when he was asked
4 to sign a cheque for £9 for Mr. A's
5 expenses.

6 On being asked a third time for the
7 cheque, the bursar told him that he
8 felt compelled to protest against this
9 payment as it seemed to him to be bribe
10 or like a bribe to induce A to bring
11 boys to the school. The Superior then
12 stated that it was a subscription to
13 the society's funds".

14 Now, I read that, in isolation from the subsequent two
15 or three page letter that the Superior sent, or the
16 Resident Manager/Superior sent, in answer to this
17 matter as the Resident Manager having told the visitor
18 that the monies concerned were a subscription to the
19 society's funds. Now, what is alleged in that suggests
20 that there may have been a practice in this regard, and
21 the only investigation that seems to have been done in
22 relation to the matter was to make an inquiry, albeit a
23 thorough inquiry, of the Resident Manager and to demand
24 his response. But there was no other investigation by
25 the school authorities or by the broader Congregation
26 outside of the school as to whether this could have
27 happened in any other instance. Would you agree with
28 me about that?

29 A. Not so much the question of the bribe, certainly the
30 question of the age.

31 35 Q. Sorry, I should have confined my question, Brother,
32 exclusively to the question of age. I didn't mean it
33 to ... (INTERJECTION)

1 (MOBILE PHONE RINGING)

2 A. Sorry, I thought I had it turned off.

3 36 Q. It could happen to anyone. I didn't mean it to refer
4 to the issue of the bribe. I meant it to relate
5 exclusively to the issue of age, that this was
6 something quite serious and it was suggested in that
7 paragraph, I won't dwell on it after this, Chairman,
8 that in the earlier paragraph that of having boys
9 committed a year out on the age. It looks on the face
10 of it like something that would make everybody sit up
11 and listen and say, "look, we better have a thorough
12 rope examination here, nothing may come of it but let's
13 just check this because if that was happening it would
14 be pretty serious", and nothing seems to have been
15 done?

16 A. No, nothing was done and it was amazing in that context
17 now --

18 37 Q. Was it not amazing then ... (INTERJECTION)?

19 A. -- that it didn't arise in the... (INTERJECTION).

20 38 Q. I mean it is a very fair thing for you to say?

21 THE CHAIRPERSON: Hold on a second.

22 MR. CONNAUGHTON: Yes.

23 THE CHAIRPERSON: Let's hear what Br. Nolan
24 has to say, first of all.

25 A. I looked on this and I mentioned on the day a storm in
26 a teacup. This was a bit of intercommunity wrangling
27 of a Resident Manager/Superior who was critical of his
28 staff and in turn the staff critical of him, I felt it
29 as scoring points against one another. In the long

1 run, he was the one left to answer the questions, the
2 question of this money to the local inspector of the
3 NSPCC and also the question of the incorrect date of
4 birth for the boy. It could be taken as a highly
5 important serious thing, but I felt it was just
6 mistakes were made, without a doubt, but nothing to
7 cause serious alarm on a grand scale. If it had, I
8 felt that it would have turned up at least at the
9 manager's meetings.

10 39 Q. THE CHAIRPERSON: Do you agree, Brother, that
11 it looks from materials
12 here as if it is not just one incidence but part of a
13 series of incidences, that's what it looks like?

14 A. If it would be ... (INTERJECTION).

15 40 Q. THE CHAIRPERSON: It may or may not be,
16 but that's what it looks
17 like? That's Mr. Connaughton's point as I saw it.

18 A. If you look through the Visitation Reports the previous
19 year, certainly for the next two years, you will find
20 quite a lot of very critical comment about this
21 particular Resident Manager. Some of the time the
22 comment is coming directly from the visitor who is
23 really tired of listening to stories and also listening
24 to his side of whatever arguments are going on. They
25 were internal mainly.

26 41 Q. MR. CONNAUGHTON: Brother, I would like to
27 take you up on that because
28 I was going do deal with that particular matter
29 separately. But I must put it to you that the

1 visitor's view of this particular Resident Manager was
2 itself highly critical, and that's reflected in a
3 subsequent report where he makes his own conclusions
4 and states them quite trenchantly. I will refer to a
5 particular passage in a moment. But he speaks of this
6 man in terms, that I would describe, as being dogmatic,
7 authoritarian and downright scary, for both pupils and
8 Brothers alike. And that doesn't seem to be merely the
9 visitor's view of him exclusively informed by the
10 criticisms that are being made of the Resident Manager
11 by others but this is the visitor's own view expressed
12 about this man, that he's really somebody you would
13 want to be looking out for?

14 A. Well that is certainly there from the reading of it.

15 42 Q. Yes. So turn turning that back, if I may, for the
16 moment to the particular topic that I am discussing,
17 isn't it not all the more remarkable, not looking at it
18 now, but isn't it not all the more remarkable that then
19 there wasn't further inquiry made into this allegation?

20 A. Perhaps so. An idea has just occurred to me now that
21 may explain it to a certain extent. You see, a year
22 and a half went by, the end of 1952, moving into 1954,
23 the actual Provincial was quite unwell around that
24 time.

25 43 Q. Yes.

26 A. And we do have to wait another two years. There was
27 new Council brought in. Actually the country was
28 divided into two groups in order to make it a little
29 easier to administer, that particular background may

1 explain to a certain extent why more drastic action was
2 not taken earlier.

3 44 Q. I was only going to ask you one further question in
4 relation to this area and it is this: Would you agree
5 with me that there are, at the very least, anecdotes or
6 instances, individual instances, subsequently of boys
7 being retained in the institution beyond the age of 16?
8 I came across at least four other instances where it
9 occurred over a period of time?

10 A. A particular reason for that was continuing education.
11 And that's the only one, because that had to be sought,
12 first of all, from the Department and granted on a year
13 to year basis. There is one, you see, who went right
14 on to Leaving Cert at that time.

15 45 Q. I thought there were other instances. I can certainly
16 recall one which occurred in another context, the poor
17 lad who died, wasn't he merely waiting? He wasn't in
18 further education, he was retained on in the
19 institution purely because they were looking for some
20 form of vocation for him?

21 A. That was another form of being discharged into the
22 manager's care. That is after normal discharge time,
23 awaiting employment.

24 46 Q. Yes. So I don't know that it was necessarily the case
25 that they were all there purely because they were in
26 further education. I think there was another instance
27 referred to in correspondence, 16 May 1969, and this
28 doesn't appear in the booklet, I am afraid I only came
29 across it, but it is CBTRA -007 if that's any

1 assistance to people if they wanted to find it. But
2 there does appear to be other instances in the records
3 of people remaining on after 16?

4 A. But they are the only ones I can account for, discharge
5 to manager pending employment, discharged. Or kept on
6 in order to attend one of the local schools, usually
7 the Christian Brothers secondary school.

8 47 Q. Can I turn now, if I may, to another topic that I
9 wanted to address with you, it is to do with
10 educational and vocational training for the boys. You
11 have given a very detailed history of the development
12 or the involvement of the Brothers in Tralee and the
13 development of this Industrial School in your written
14 submission, and indeed in your oral testimony
15 previously. I understand from that that although a
16 primary school was started in 1862 the Industrial
17 School then started eight years later and the paths
18 were separate paths?

19 A. Absolutely. Yes, completely separate.

20 48 Q. I wonder in that regard, because again I can find
21 nothing in the documentation pertaining to the period
22 under review, was there ever a review of the thinking
23 behind that during this period, because if there was it
24 doesn't appear anywhere in that documentation?

25 A. No, there doesn't seem to have been. There were
26 separate institutions and there doesn't seem to have
27 been any reason for putting them together, according to
28 the people at the time.

29 49 Q. Well, could I look at it another way. Did anybody

1 examine whether there was a reason for keeping them
2 apart?

3 A. I don't think so.

4 50 Q. The reason I ask you this, it is something that has
5 arisen in the context of other institutions run by
6 other Orders and in some instances, albeit a few, a
7 determined decision was taken to integrate?

8 A. And then eventually it was here, but in his last year
9 of existence.

10 51 Q. I know it was very belated?

11 A. Very belated. But early on I think the idea of a new
12 institution was certainly -- a new unit and it was to
13 remain as a unit, according to the thinking of the
14 time. In the meantime the other -- the ordinary
15 national school, though it wasn't a national school, it
16 was a Christian Brother school until the 1920's, they
17 were very strapped for space and just could not
18 accommodate any more. They moved eventually, by having
19 their community somewhat nearer their school, but they
20 were fighting from almost the time that the Industrial
21 School started for money to extend the primary and
22 secondary schools that had begun just before the
23 Industrial School.

24 52 Q. You see, Brother, again because I take it from the
25 papers so therefore I will put it to you on this basis,
26 what appears to me from your own submissions is the
27 idea that this was an Industrial School with a
28 particular ethos, with a particular type of regime, a
29 modus operandi that was different and the idea was it

1 would be segregated and apart and there would be no
2 integration whatsoever with ordinary life, it was to be
3 separated and kept apart in every respect?

4 A. Well I wouldn't say it as far as segregated from
5 ordinary life. But certainly to stand alone as a unit
6 they -- there happened to be other units near them,
7 there was a convent across the road and they weren't
8 entirely cut off from that.

9 53 Q. Well, let's explore it, because I put it quite
10 deliberately to you separate from ordinary life. We
11 accept that the circumstances of admission of the boys
12 in this institution were unfortunate, to say the least,
13 nevertheless it is the case that, on your own
14 statistics, approximately 20 to 25% of them were not
15 children who came through the courts for the commission
16 of any offence or misdemeanour or anything of that
17 nature?

18 A. Yes.

19 54 Q. So straight off we have a category of child in this
20 institution who is only there because of his particular
21 unfortunate family circumstances. So, plainly there
22 could be no disciplinary reason for containing him
23 within an institution of this nature or keeping him
24 apart from the ordinary schooling system, you would
25 agree with me in relation to that?

26 A. I would agree there, certainly.

27 55 Q. Secondly, in terms of separation from ordinary life, on
28 your own statements, on your own submissions, it is
29 conceded that from a very early stage the laity was

1 taken out of the managerial process of these schools.
2 In the early stages, I understand it in the very, very
3 early years, there would be some class of committee
4 with some class of lay involvement?

5 A. Never in Tralee, we are going back before that.

6 56 Q. No, in general in these institutions?

7 A. Yeah.

8 57 Q. But that they became exclusively -- and Tralee was
9 exclusively run by the Brothers with no outside
10 involvement?

11 A. Yes.

12 58 Q. It is only... (INTERJECTION)

13 59 Q. THE CHAIRPERSON: Just stop there for a
14 second. What do you say
15 about that, this is about the structure of management,
16 Brother?

17 A. Well, it is more or less accepted from all writings
18 about other Orders as well, that when -- first of all,
19 the core questions of industrial schools were mooted
20 and that it was difficult to find anybody to do it.
21 The local authorities opted out from that particular
22 obligation. So the religious orders were brought into
23 play here. Now, they brought with them their own
24 structures, partly because, I say, of informal trials.

25

26 There was a case actually in Salthill where they took
27 over an establishment that had been run by a committee,
28 it didn't work, and then the Brothers used their own
29 community structure, which was the replacement for the

1 committee. As such it would have had the Resident
2 Manager, sub Superiors, a helper, bursar and so on and
3 teachers at the lower end of the community and the
4 younger people. That happened all over the place then
5 once the door had been opened, that this was something
6 that worked.

7 60 Q. THE CHAIRPERSON: I am just remembering, for
8 instance, that the
9 certificate, which is why I brought it up at this
10 point, Mr. Connaughton was talking about supervision of
11 institutions under a committee. Now, offhand I can't
12 remember precisely what the certificate says for
13 Tralee, but I can tell you the certificate for
14 Letterfrack says the Christian Brothers under a
15 committee, and there was such a committee?

16 A. There was a committee, yes.

17 61 Q. THE CHAIRPERSON: There was such a committee
18 for a time?

19 A. Yes.

20 62 Q. THE CHAIRPERSON: One of the questions which
21 I am sure occurred to me
22 and which I wrote down somewhere, was to find out what
23 happened to the committee in Letterfrack? Was there a
24 committee structure or was there... (INTERJECTION)

25 A. Well I know there was one in Salthill, I can't speak
26 for Letterfrack as such.

27 63 Q. THE CHAIRPERSON: What happened -- as far as
28 you know, and I know it is
29 trespassing outside of the area, but what happened to

1 the committees?

2 A. They were just by-passed completely, disbanded I would
3 say, having been left aside.

4 THE CHAIRPERSON: Yes.

5 MR. CONNAUGHTON: I think Ms. Moorhead has
6 very helpfully clarified
7 that, maybe she would like to tell the Commission
8 herself.

9 MS. MOORHEAD: Chairman, it is appendix
10 one of the general
11 submission and it does provide as part of the rules and
12 regulations that the institution and management would
13 be a staff of Christian Brothers under a committee.

14 THE CHAIRPERSON: This is the certificate.

15 MS. MOORHEAD: Yes, for Tralee. Which
16 would be similar to

17 ... (INTERJECTION)

18 64 Q. THE CHAIRPERSON: The way a place was
19 certified was that the
20 rules and regulations were sent out with the names
21 filled in of the institution, who was going to run it,
22 the numbers certified and I think the formal document
23 was sent back signed by the manager of the institution.
24 So it was supposed to be run under a committee. That
25 tended to be repeated all the time down the years
26 including 1933 when they standardised them across all
27 the institutions. Nothing seems to have changed but by
28 that stage we have long forgotten a committee; is that
29 the position?

1 A. Well the committee was the community in fact. Once the
2 Brothers anyway took over place their community
3 structure that was the community, or the committee.

4 65 Q. THE CHAIRPERSON: But just on the theme, I
5 can see an argument that
6 would say "well, if it was an committee structure there
7 would be more consultation, more discussion." One of
8 the issues obviously, is if you have a community, not
9 necessarily the Christian Brothers, but a community
10 subject to the obligations of the religious profession,
11 subject to pretty strict discipline partly arising from
12 that and so on. That that means really everything
13 depends on the head person?

14 A. Yes, you have it there exactly. Though there
15 were... (INTERJECTION).

16 66 Q. THE CHAIRPERSON: Now, if you have a
17 committee it reduces that
18 element of dictatorship, whatever it is, of one person
19 ruling, it reduces that greatly?

20 A. Technically the house committee, you might notice there
21 sometimes in lists of communities that are dealing with
22 industrial schools they would have the Resident Manager
23 or Superior, then a sub Superior, then bursar, then
24 usually counsellor and if it were a larger community,
25 let's say Artane, I am not sure did it obtain there,
26 two counsellors for a large community. These were to
27 meet every now and again, preferably every month.

28
29 But I think what you have said is nonetheless correct.

1 The Local Superior or Resident Manager being always
2 there and dealing with these people, perhaps wearing
3 different hats, that everything depended on the
4 Resident Manager to a certain extent.

5 MR. CONNAUGHTON: If I may Chairman, I think
6 it assists in relation to
7 the point that you were addressing, Ms. Moorhead dealt
8 with an aspect of it. If I may just refer you briefly
9 to page No. 9 of the submission on behalf of the
10 Congregation.

11 THE CHAIRPERSON: Yes.

12 67 Q. MR. CONNAUGHTON: I had, in light of what the
13 Brother had said a few
14 moments ago in reply to me, I thought I had been
15 mistaken about the issue of the committee, but I don't
16 think so. If I may just read that briefly. It
17 describes the management structures as varying between
18 individual schools and it refers to the fact that the
19 chief secretary under the old regime would be involved
20 in the composition of such committees.

21
22 then it goes on to say in the next paragraph:

23 "The decade 1870 to 1880 saw the
24 takeover of boy schools from lay
management by orders of Brothers."

25
26 I appreciate that that is a generic statement.

27
28 "Schools at Greenmount in Cork and
29 Salthill in Galway originally managed
by committees and paid staff were taken
over by the Presentation Brothers and

1 the Christian Brothers, take over of
2 catholic schools by religious orders of
3 Sisters and Brothers who effectively
4 displaced lay management committees was
the consistent pattern of development
in the years immediately following the
industrial school legislation.

5 As stated above, catholic schools as a
6 rule discontinued the use of management
7 committees and replaced them with other
structures with which they were
familiar.

8 In the management of industrial schools
9 religious orders appeared to have been
10 in an advantageous position at that
11 time."

12 Then it goes on to talk about the allocation of
13 resources. Then in turn goes on to identify the local
14 management structure that would have operated in
15 relation to Tralee. It says:

16 "The Children's Act 1941, Section 5
17 find a Resident Manager of a certified
18 school and its duties in effect the
19 local Superior was now the Resident
20 Manager and the Superior General
Provincial Superior after 1925 was the
manager and the structure of management
was really the structure of Tralee
community.

21 The Superior Resident Manager, his
22 assistant the sub Superior, the bursar,
23 the counsellor, the school principal,
24 the disciplinarian, the Brothers in
charge of the farm and kitchen, the
25 infirmary and the tradesmen and night
watchmen and these positions are
explained in chapter 4 of management".

26 There is no reference there about any form of an
27 internal committee in operation, it was truly a
28 hierarchical structure where the Resident Manager was
29 in charge?

1 A. Very much so. At community level though there was a
2 house council and if you were looking for something
3 formal that was it.

4 68 Q. Yes, but there was nothing -- coming back to it, you
5 will recall that this started with me putting to you
6 that the structure, the regime of the Industrial School
7 was one that set it apart and isolated it, and that it
8 was outside of ordinary life. I was giving some
9 instances of that along the way. One of them that I
10 gave to you, I already dealt with two others, one of
11 them that I put to you was the fact that there was no
12 laity involved in any committee of management or any
13 management structure in relation to the institution,
14 but yet this was contemplated within the statutory
15 regime under which they were certified?

16 A. Oh, that is true.

17 69 Q. I would respectfully put to you that the only
18 explanation for that is that a determination was made,
19 I take it not just by Christian Brothers involved in
20 these schools but certainly the Christian Brothers, a
21 determination was made by the schools that they were
22 effectively taking authority in relation to these
23 ... (INTERJECTION)?

24
25 (MOBILE PHONE RINGING).

26
27 THE CHAIRPERSON: Three strikes.

28 70 Q. MR. CONNAUGHTON: What I was just putting to
29 ... (INTERJECTION)?

1 THE CHAIRPERSON: There is no point in
2 getting indignant. I
3 understand, these things happen. Are you happy that
4 you have it adjusted now?

5 A. To the best of my knowledge.

6 MS. MOORHEAD: We will take possession of
7 it.

8 THE CHAIRPERSON: Very good. Somebody
9 doesn't have at it with a
10 hammer.

11 71 Q. MR. CONNAUGHTON: Brother, what I was just
12 putting to you was that I
13 certainly would suggest to you, I must respectfully
14 suggest to you, that the only interpretation that can
15 really be put on this is that the Brothers, and I
16 appreciate other institutions similarly, other
17 Congregations similarly, the Brothers were in effect
18 saying "we are taking control of this, it is our party.
19 We are in complete charge of this", to the exclusion of
20 others?

21 A. That would appear to be it, yeah. I think that
22 paragraph there is essentially from Jane Barrons, I
23 think, about industrial schools, that covers it
24 adequately.

25 72 Q. The other aspect that I wanted to suggest to you
26 reflects this exclusionary principle is that there was
27 little lay involvement throughout the history of Tralee
28 in the staffing of the school generally. Staffing of
29 the Industrial School generally?

1 A. Except from trades teachers and some lay teachers in
2 the primary school, and there were very few of those.

3 73 Q. Very few of those. And there never seems to have been
4 any determined policy on the part of the Congregation
5 to encourage the involvement of lay people in the
6 management and running of the school?

7 A. No, there is no doubt about that.

8 74 Q. Could I turn now more specifically in relation to the
9 issue of education, to some things that are said in
10 your statement and in turn in the evidence that was
11 given when Mr. McGovern was asking you questions about
12 this area. It strikes me from reading your submission,
13 and I am referring here in particular to two passages
14 one on page 46 and the other on page 48 of your
15 submission, that your own view, that is the
16 Congregation's own view of education within the
17 institution and how successful the Congregation was in
18 educating boys is governed by two premises.

19
20 The first one is that which is stated in the
21 commencement of the second paragraph of page 46:

22 "The standard of primary school
23 schooling provided in Tralee was quite
24 good considering the standard of the
25 pupils and intake."

26 So in other words, one premise upon which your
27 conclusions are founded is that "Look, we did the best
28 we could with the material we had because these kids
29 came from very deprived backgrounds and really we were

1 always going face limitations"?

2 A. Yeah.

3 75 Q. Then the second measure, or second premise upon which
4 your general statements about your success in education
5 seems to be the reference to the national record. You
6 have made it clear that the school would have followed
7 the normal standards and I think what you say at page
8 48 of the commencement of the second paragraph is:

9 "However, the general standard reached
10 was comparable with, or exceeded that
11 attained in national schools
generally".

12 Now, there is a tie in here, obviously, with the
13 vocational side of things. You would agree with me, I
14 would presume, that the overwhelming majority of boys
15 leaving Tralee, I am confining these questions to
16 Tralee, left to do the lowest form of menial work?

17 A. A lot of them went into farming, yes.

18 76 Q. Well, farming, catering and, I think, there is a third
19 reference, these are dealt with, in fairness to you,
20 the statistics are provided at, I think it is, page 46,
21 but I stand corrected in that regard. I may be out a
22 page or two in that respect.

23 A. No, it comes in later on under "Placement".

24 77 Q. You are absolutely right, I think it is 56, in fact. I
25 have just done a very, very rough statistic. If you
26 take four particular classifications there, the first,
27 the second, the fourth and then the tenth; that is farm
28 boy, house boy, hotel worker and gardener. Between
29 those they constitute just under 78% of the total, so I

1 would respectfully suggest that's the overwhelming
2 majority of boys would have gone out to those types of
3 activity?

4 A. They would, yes.

5 78 Q. That says two things, I respectfully suggest to you,
6 the first is that the efforts at education had
7 obviously not been that successful, if that was the
8 best that they could be put to; secondly, that it shows
9 a very significant defect in the overall approach of
10 the Congregation and in particular in Tralee, to
11 vocational training. Maybe you would like to comment
12 on both of those propositions that I have put to you?

13 A. Certainly. Well, throughout both the submission and
14 questioning later there was the question of the trades
15 changing and going out of date. Also restrictive
16 practices as well, it made it difficult to get into
17 trades. Then what was commented on also in reports is
18 the question of agricultural employment, that was free
19 of the restrictive practices, it happened in Tralee,
20 quite a number came from a rural background so there
21 was a tendency already to concentrate on farming and to
22 get employment there and in the area to have people
23 offering employment. So that would account, I would
24 say, for the farm boy question there.

25

26 Now, there is another question linked to that was how
27 long they stayed there. That can be covered partly by
28 the local farmers, I am afraid, letting them go after a
29 few years rather than pay them as adults. And an

1 attraction to join the army, which is another question
2 all together.

3
4 It just happens they were very, very good at carpentry,
5 but at the time, after the Cussen Report it actually
6 warned that they were actually going out of existence.
7 So the carpentry was good, employment prospects didn't
8 match up to that.

9
10 what they did mention though when they were leaving
11 Tralee, it was mentioned in "the Kerry Man", that quite
12 a lot of them got into the building trade, not perhaps
13 as carpenters but did get permanent employment, somehow
14 probably through their knowledge of carpentry in the
15 building trade. That heading is not mentioned in any
16 of those lists, but strangely it is one of the ones
17 that was picked up by the people of the town, they were
18 giving their assessment. That appeared in an article
19 in "the Kerry Man" in 1969 when the place closed.

20 79 Q. Yes, I have read the particular argument. Really what
21 I am coming back to in the context of education, one of
22 the striking omissions from that list is any form of
23 trainee clerical post or anything that would involve
24 numeracy or literacy or any of those things, it all
25 seems to be on the heavy emphasis of pure physical,
26 manual labour and nothing else. I just wonder whether
27 that in turn must surely be a reflection on the
28 standards of the achievements of the boys in education
29 on these basic literacy skills and basic numeracy

1 skills?

2 A. It is something I have been uneasy about myself as
3 regard all of these industrial schools. First of all,
4 intense concentration in primary schooling and then
5 immediately over to trades, with different type of
6 activity altogether. Though, to be fair to them all,
7 there was a certain amount of what was called literary
8 training in evening time for those who were on the --
9 especially on the farm, but those engaged in trades,
10 but it was just enough to keep them topped up, it
11 wasn't an advance on what they had already learned, I
12 would say.

13

14 Carriglea, of course, did try that, they use the post
15 office as a means of employment, by entering them for
16 boys after primary school they kept them on in primary
17 school, in 7th class and they applied for the post
18 officer messenger's exam, with quite an amount of
19 success. Now, that was an effort there on the clerical
20 line.

21

22 But looking back, it is very hard to find what a
23 youngster, first of all, of 14 would do outside of
24 industrial schools, these people are becoming messenger
25 boys. At 16, they were unemployed when that job was
26 up, so it is difficult to judge by the present day, I
27 think. Things could have been done now, certainly we
28 would see that.

29 80 Q. But we are not engaging in an exercise of retrospective

1 viewing here. We are looking at it, we are
2 attempting -- we are looking at retrospectively, but we
3 are attempting to look at it from the perspective of
4 the time. And at the time, as I understand the
5 position, it was the statutory responsibility of those
6 in the industrial school to see to them being placed in
7 some form of activity upon their leaving, so it was an
8 access express duty as opposed to conferring any form
9 of a privilege?

10 A. It was duty, no doubt about that.

11 81 Q. It strikes me as being an omission, and I must put it
12 to you as such, that there seems to have been no
13 consideration given in this particular school to the
14 possibility of developing boys other than into these
15 activities that were primarily unskilled manual labour
16 activities?

17 A. Well, as results show that's the way it was. But I
18 think they were searching all the time, first of all,
19 to improve -- not so much the vocational work that they
20 had on offer, but acceptance for it and to get paper
21 qualifications for it. You know, the manager we were
22 mentioning there earlier in the 1952 range, in 1950 he
23 got a connection made with the vocational school,
24 whereby a teacher came.

25 82 Q. Voluntarily, yes, I saw that.

26 A. Yes. Later on it developed into something more formal
27 and eventually they actually attended. Somehow or
28 other they were still excluded from going beyond the
29 Group Cert and getting into a trade. But that

1 exclusion wasn't done by the Christian Brothers, it was
2 as far back as the Cussen Report was regarded as
3 restrictive practices.

4
5 Unions were mentioned here before and it is an area
6 that I am not particular anxious to go into. Since, we,
7 first of all, have no power over them, and it wouldn't
8 be fair to criticise them, I think. But they didn't
9 accept people from industrial schools easily.

10 83 Q. And I see that that is something that is reflected in
11 the contemporaneous documents but that's not really the
12 point I am putting to you, Brother. The point I am
13 putting to you is that it was uni directional, it was
14 one directional in relation to the focus and there was
15 no effort made by the Congregation -- I am sorry to put
16 it as bluntly as this, but there was no effort made by
17 the Congregation to try and develop the other side, as
18 it were, if there obstacles being put in your way on
19 this side there seems to have been no effort, rather
20 there was an acceptance that that was the way things
21 were and that was the best that could be done?

22 A. A little bit of that, but when things came about, like
23 cert courses and so on, yes, they followed these. Or
24 they weren't able to go directly into some of the cert
25 courses but it followed the preparatory stages and on
26 discharge a number of them -- it is mentioned actually
27 in the "the Kerry Man" also that it was an entree into
28 cert courses, I think, in Galway was one of the ones
29 mentioned. So they were looking around, but not

1 everything developed easily in those times.

2 84 Q. Yes. The final point I just wanted to put to you in
3 this particular regard is one that I draw again from
4 your own information in your own discovery
5 documentation. It pertains to the circumstances with
6 regard to wages of boys going out into employment.
7 Again, this is only anecdotal, but I would ask you to
8 comment upon it nonetheless. There are references in
9 the Visitation Reports with respect to the lay staff
10 retained by the Brothers in Tralee. There is an
11 acknowledgement in at least one of those that rates
12 weren't where they ought to be. In fact, they were
13 well short. I think there is one example given where
14 it is suggested that somebody could get -- I won't say
15 twice as such, but certainly a substantially greater
16 sum if they were out in the marketplace.

17
18 Yet at the same time, and I don't want to refer to
19 evidence that was given in the earlier stages, but at
20 the same time a boy is put out into farm employment, at
21 the exact same time in the 1940's, at one-fifth of the
22 rate that was being paid to a worker who was
23 acknowledged to be underpaid in the school itself.

24
25 I know that's only an anecdote but there were other
26 little anecdotes that come from the discovery
27 documentation about farm employment, I suppose what I
28 have to suggest to you is that the Brothers at the time
29 were aware that boys were being exploited, going out

1 into farm labour and yet this was still something that
2 was pursued quite vigorously.

3
4 We see, for example, the overall figures are 151 out of
5 a total of 432 in that particular statistic went to
6 farm work. And yet, there was an acknowledgment as
7 early as -- well, I suppose as late as 1965 an
8 acknowledgment in the Visitation Report that they were
9 the being exploited. But I must put it to you that
10 there was a knowledge of exploitation much earlier than
11 that?

12 A. There was, but before 1963, I think, or 1962, it is on
13 page 55 there, the Agricultural Wages Board suggested
14 basic rates for farm labours of the type that the boys
15 were and at least that was a guideline, but there is
16 another aspect of it too, the actual wages in the hand
17 to the boy was usually much less than that. The deal,
18 as best it could be haggled with local farmers, was,
19 first of all, an overall wage and then so much for the
20 boy's keep. There was another aspect of it too, which
21 was to put the residue of money, having taken the boy's
22 keep out of it, to put that into the post office, which
23 the youngster mightn't have known about or fully
24 understood, and then to hand the boy what was left, a
25 tiny pittance for a few shillings or maybe less for the
26 week in hand, to have some pocket money. So it is very
27 difficult to actually zone in on how much they were
28 actually getting.

29 85 Q. I appreciate that and I hope that I wasn't trying to

1 make too much of one instance, but I was merely using
2 it for comparative purposes at the time. But really
3 the point that I am trying to make, or put to you is
4 this, that there was no consideration given by the
5 Congregation, by the Brothers in charge as to whether
6 boys should be allowed to go out into farming at all,
7 given the risk of exploitation that would have
8 resulted?

9 A. Well that danger was there, though unfortunately there
10 was a certain, one might say, reluctant blessing on
11 farming in reports as well, seeing that opportunities
12 were there the rural nature of the country up to the
13 1960's and the fact that they were no barriers, the
14 barriers that they met in better -- especially trades,
15 or better opportunities were not there in farming. Of
16 course that of its very nature implies a certain amount
17 of exploitation or a certain welcome to receive, to
18 pull people off the labour market. There is no doubt
19 about that, but I think they were doing their best in
20 very, very restrictive circumstances.

21 86 Q. I will turn now, if I may, to effectively the final
22 area I want to discuss with you, and that's the area of
23 the discipline and the regime that was imposed in that
24 particular regard. If I may firstly refer to what I
25 think was your summary of the position, as you saw it
26 from the records, that there were instances of
27 excessive punishment and, in fairness to you, you
28 conceded to Mr. McGovern that there were a number of
29 instances where punishment had been excessive. But you

1 draw reference to the Visitation Reports as an
2 indication of general satisfaction among the boys with
3 the regime that operated?

4 A. Yes.

5 87 Q. But if I may just focus for a moment just on the pure
6 discipline. I think you would agree with me, and
7 indeed you have already indicated it in your earlier
8 phase of our discussion, that the set up of Tralee,
9 like any of the Industrial Schools under your
10 management was a highly structured, regimented,
11 ordered, disciplined environment. A lot of the boys
12 were coming to you from a troubled background, some of
13 them -- a good many of them had been in trouble and it
14 was important to exert authority over them?

15 A. Yes.

16 88 Q. I think we also got an indication from earlier phases
17 of this Committee's investigation that a number of the
18 Brothers who were thrust into roles were young Brothers
19 who, as it were, were suddenly thrust into a position
20 of authority over those, some of those not being much
21 younger than themselves and that was a difficulty for
22 them too. And it was an era in which corporal
23 punishment was permitted by statute, subject to
24 limitations. So we have all of that by general
25 background to the subject. I suppose what I have to
26 put to you is that the environment in reality was even
27 tougher than that, and that the toleration of corporal
28 punishment by the Brothers was a toleration of
29 significant corporal punishment in Tralee. And I want

1 to give you some instances in that regard from the
2 documentation on discovery that you might like to
3 comment upon?

4 A. Yes.

5 89 Q. I suppose I have to start the discussion by reference
6 to the noted absence of any discipline book and maybe
7 to discuss very briefly with you, it is an issue that
8 has been canvassed with numerous of your colleagues, to
9 discuss perhaps with you some aspects of that omission,
10 because it is a record that if it existed and had it
11 been maintained would have told us something about what
12 was going on in practice. I think you conceded to
13 Mr. McGovern that, although I think you had initially
14 said that perhaps it had fallen to disuse, but that it
15 doesn't appear to have existed at all in relation to
16 Tralee?

17 A. I say not, no, there is no record of that whatever.

18 90 Q. You can do no better than to refer back to the records
19 and whatever research you done. But there is nothing
20 to suggest that it ever existed, that seems to be the
21 case. Yet, I have to put to you that it is remarkable
22 that neither the Department of Education visitations or
23 the visitations by members of the Congregation ever
24 allude to it in any regard at all?

25 A. You see... (INTERJECTION)

26 91 Q. Do you think that was because everyone accepted that it
27 was a rule more honoured in the breach than in the
28 observance or perhaps because everything was in order
29 at the time in this regard?

1 A. I was going to mention about the Department but you
2 have actually mentioned it. That's the one that
3 surprises me, with the mention of a Punishment Book,
4 though there is a little bit of ambiguity there insofar
5 as rule 12 mentions a serious misconduct being
6 registered and then the punishment for it. Whether
7 that was a loophole whereby other punishment was not
8 seen to be serious at all or the serious breaches of
9 rules ever happened. But the fact that there were
10 regular inspections.

11 92 Q. THE CHAIRPERSON: But if a boy absconded,
12 everybody agree that it was
13 serious, beyond yea or nay, that was serious?

14 A. Yes. And well there was no book anyway. But how an
15 Department Inspector didn't bring it up. Because
16 normally if they had done it it would have been mention
17 I am sure that in an effort to avoid further reports
18 mentioning it it would appear.

19 93 Q. THE CHAIRPERSON: Was this discussed, do you
20 know, Brother, in the
21 Resident Managers' Association?

22 A. I can't say it was, no.

23 MR. CONNAUGHTON: You are anticipating me,
24 Chairman.

25 THE CHAIRPERSON: Sorry.

26 A. I think to my knowledge I think I never saw it. There
27 were two, I think, dealing -- frankly dealing with the
28 day-to-day effects.

29 94 Q. THE CHAIRPERSON: It seems odd that almost

1 really raise another issue, which is the distinction
2 between theory and practice? We know that there were
3 two sets of rules in existence. One was the rules
4 imposed under article 12 or regulation 12 and the other
5 was the Brothers' own rules, which obviously were in
6 existence throughout the relevant period that we are
7 discussing and then we have the practice. A couple of
8 things emerge from the practice, as we know.

9
10 You very fairly conceded that the issue of discipline
11 was substantially left to the individual Brothers. And
12 there is no record, in fact to the contrary, there is
13 anecdotal evidence that Brothers weren't given
14 instruction in relation to the use of discipline, that
15 they autonomous in this regard. The only check that
16 seems to have existed is where extreme instances occur
17 plainly that gets dealt with and we have an instance of
18 it here, but I will be putting certain questions to you
19 about that in a moment. But that it is really only
20 when there is a break out of a significant level of
21 discipline by a particular individual or a clear
22 complaint of something excessive that actually gets
23 followed through that we have any direction given in
24 this regard. But that Brothers going to these
25 institutions were not given practical assistance in
26 this regard or practical instruction?

27 A. There wouldn't be any practical instruction beyond what
28 was there for everybody. Because the rules -- first of
29 all, the rules for national schools and our own -- our

1 own were guidelines on top of what were State
2 prescriptions. They existed always. They were kept
3 before them, there was a custom of reading at meals and
4 so on and in these Industrial Schools things that were
5 read were mainly read at meals because it was the only
6 time the majority would be together. At certain times
7 during the year these particular rules were dealt with.
8 So they knew them, they could quote them and it was up
9 to themselves to keep them.

10
11 Now, there was no particular sanction for anything, now
12 that's a big weakness with all of the systems.
13 Actually naming misdemeanours and sanctions, to my
14 knowledge, only came in around 1989, when eventually
15 something was done after the removal in 1982 of
16 corporal punishment for schools. It finally stated
17 that each school should make its own arrangements on
18 the question of corporal punishment. But in those
19 particular days apparently it was getting to know a
20 teacher and getting to know a teacher's ways.
21 Nonetheless, the teachers were under the general rules.

22 97 Q. But this leads me back to the point that the
23 distinction between theory and practice, and one of the
24 points that I suppose I have to put it to you in
25 relation to a particular Brother who habitually beat
26 boy, obviously I am not going to name him, but the
27 particular Brother, you know the time period that I am
28 referring to, it was dealt with extensively between
29 yourself and Mr. McGovern in exchanges in January?

1 A. It was, yes.

2 98 Q. He continued in a teaching role in that institution.
3 In fact, he moved from teaching institutions to
4 teaching institution. I appreciate you are relying on
5 records and I just want to correct something that you
6 said in that regard in January, but before I come to
7 that, this was somebody who engaged in serious physical
8 assaults and yet he was allowed to continue teaching.
9 I have to put it to you that demonstrates a complete
10 indifference, I can't put it any other way to you, a
11 complete indifference to the risk of injury to boys and
12 a tolerance of physical abuse short of something that
13 sends somebody to hospital?

14 A. Well, as I said that time, that's indefensible, we
15 cannot tolerate it.

16 99 Q. That was in the late ... (INTERJECTION)?

17 A. Why it lasted so long and the leniency I just cannot
18 understand it. One thing that did strike me during
19 private hearings, you see, we said at one stage that on
20 his last chance he was to be monitored and the
21 complainant thought that a certain Brother was
22 constantly watching him. It was the teacher he was
23 watching. So there was some effort, the person
24 happened to be the principal. But it was a most
25 inadequate effort, he should have been removed at the
26 very first. There was a long correspondence there,
27 certain letters, the first one should have been enough.
28 So I cannot explain it.

29 100 Q. There are a few other, I appreciate you are being very

1 forthright in this regard, but there are a few other
2 aspects that I just wanted to tease out with you. In a
3 general way in your statement, and I appreciate there
4 is some evidence to support this, you speak about the
5 environment as being an open environment in which, if,
6 I am implying this, in which if there was a complaint
7 it could be brought forward and could be brought before
8 the appropriate authorities.

9
10 On the other hand, and I know you were present for any
11 of the instances that I was involved, on the other
12 hand, we had former pupils of the institution saying
13 that they were in fear, they were in apprehension, and
14 that when they were beaten, severely, or otherwise
15 subjected to abuse, that they felt they couldn't
16 complain about this.

17
18 Now, I appreciate that's going back to an extent to an
19 area that I have already covered with you, which is the
20 general environment, the general view in which people
21 lived and operated in this institution, but just in the
22 context of discipline for a moment, everyone's going
23 around, apparently, saying that this individual is
24 severe. The children -- I don't want to speak ill of
25 the dead, but the children describe him as a madman, in
26 fact, I think this is what got somebody into trouble in
27 one instance. And the Visitation Reports certainly
28 question, I won't say question his sanity, but
29 certainly question his mental health, and he carries on

1 regardless. We are talking about a time frame that
2 isn't in the 1940's or the 1930's, but in the late
3 1950's and through to the mid-1960's. Now, that is not
4 something that we can look back now and say, "well, in
5 the culture of the time that was acceptable." I mean,
6 this man's catalog of offences included, as I
7 understand it, fracturing -- note I don't say breaking,
8 fracturing a child's jaw, not in this institution, I
9 accept, but he came to this institution very shortly
10 thereafter; beating somebody with a stick; and giving a
11 boy a black eye in the context of an assault, and an
12 assault on a child of tender years.

13
14 Even in that time frame, I have to suggest to you, that
15 if the environment in which these children were
16 detained was the caring environment that you have
17 described it, this man would have been taken out in a
18 black Mariah and handed over to the police?

19 A. As I said, I cannot explain the leniency shown in that
20 regard. And it was a case of knowledge because this
21 were reported.

22 101 Q. THE CHAIRPERSON: People knew about this?

23 A. People knew about this and there was an effort made in
24 monitoring. In the hearing of January I tried to give
25 a pattern of change. Now, a change meant a punishment,
26 a severe one, and this was also backed up by a
27 canonical warning, which was religious form of censure.

28 102 Q. THE CHAIRPERSON: So a transfer was a mark of
29 disapproval?

1 A. It was. It affected his whole social life because a
2 person like that knew he would be spoken about. A
3 transfer doesn't look too bad, in effect it was quite a
4 big punishment. Then it went on from that into trying
5 to monitor his actions and eventually the axe came
6 down. I just cannot explain why these steps were taken
7 as they were and that they petered off as they
8 eventually did and without working.

9 103 Q. THE CHAIRPERSON: I suppose one way of
10 looking at, Brother, is to
11 say whose interest is being served here? If you are
12 serving the interest of the children you get rid of
13 them?

14 A. That is true.

15 104 Q. THE CHAIRPERSON: If you are serving his
16 interest you transfer him?

17 A. (WITNESS NODS).

18 105 Q. THE CHAIRPERSON: I mean, that's one way.

19 A. Yes.

20 106 Q. THE CHAIRPERSON: It might be a modern
21 management way of looking
22 at it. But if you say, "what is actually happening
23 here? What decision are we actually doing here?"

24 A. In the long run ... (INTERJECTION).

25 107 Q. THE CHAIRPERSON: Because if we transfer
26 him, doesn't it give
27 messages to the other Brothers, if a young Brother
28 comes down and he finds that this is going on?

29 A. That's true.

1 108 Q. THE CHAIRPERSON: I mean it is worse than
2 just an individual instance
3 of somebody, I don't know, having a drink, having a
4 bet, whatever it is, meeting somebody that he had some
5 -- it is a bit, would you... (INTERJECTION)?

6 A. That's no doubt, that's why it is absolutely
7 indefensible and extremely difficult to understand,
8 impossible to understand how it is allowed to go on for
9 so long. Also, his condition, he was there essentially
10 as a supernumerary to help out, not in an official
11 capacity, and maybe the idea was that perhaps some
12 supervision would be enough for him. But he had also
13 failed on that in other occasions.

14 THE CHAIRPERSON: Exactly.

15 A. At the beginning of all the trouble, or an early stage
16 of the trouble. So I just can't understand it.

17 109 Q. MR. LOWE: Can I put the "beware of
18 the dog" hypothesis to you.
19 If you have a mad dog at the premises it deters
20 miscreants, very often schools do have someone who --
21 well it was inscribed as a disciplinarian who instilled
22 fear and through that other people could maintain
23 discipline?

24 A. I couldn't see it happening in this particular case.
25 No, we couldn't. It would be inconceivable for an
26 administration to take that. It might have happened in
27 effect. In a certain way, I think, the other members
28 of the teaching staff at the time got a severe warning
29 just from knowing what happened. But I don't think --

1 there was no connection in that sense. I think it was
2 a transfer from one place to avoid difficulty and going
3 sometimes from the frying pan into the fire.

4 110 Q. MR. CONNAUGHTON: Can I just in that
5 particular regard refer you
6 to a few specific matters that were of concern, other
7 than those that we have already addressed, I appreciate
8 again you have been very forthright in acknowledging
9 that things were not done correctly. Isn't it the case
10 that even after this time, that is even after he left
11 St. Joseph's, that he would have had some involvement
12 in another teaching institution?

13 A. To my knowledge it would have been very remote.

14 111 Q. Well, it wasn't anything other than a school; isn't
15 that right?

16 A. Yes.

17 112 Q. The particular location he went to wasn't anything
18 other than a school?

19 A. Well one of the places he went to was the actual
20 Provincialate itself, the school was not there. Some
21 time after being there then he went to an ordinary
22 community and he did a course, which occupied him for
23 two years, so there was a big barrier there. Then by
24 that time we have now worked ourselves into the early
25 1970's, other opportunities were emerging. So, to my
26 knowledge, he didn't go back to school.

27 113 Q. Well, didn't he go to Oaklands?

28 A. Oh yes, as a retired person.

29 114 Q. I see. With relation to the boys and their particular

1 fears and concerns and their apprehensions in relation
2 to complaints, I must put to you that the culture that
3 existed in St. Joseph's, indeed the culture in
4 Industrial Schools generally but you are only dealing
5 with St. Joseph's, was such that children would be very
6 fearful of making complaint, very fearful of bringing
7 forward any grievances that they might have,
8 considering that with the exception of the chaplain,
9 who in this instance, as I understand it, resided with
10 the community, so it wasn't even a chaplain on the
11 outside, so to speak, that the children in St. Joseph's
12 had nobody to turn to in the event of complaint. If
13 they were concerned about their treatment they had
14 nobody to turn to?

15 A. As regards formal structure, yes. But not all the
16 Brothers were unapproachable. A very common way
17 actually for making contact was the person on
18 supervision in the yard, there was a long period there
19 after lunchtime and, as in all schools, the supervisor
20 walked up and down usually with a string of kids on his
21 side, now there was an opportunity. I would say that
22 would be the type of opportunity that would allow the
23 chance for complaint. To go to an office and knock on
24 a door, I would say that would be beyond most
25 youngsters, that opportunity was there during
26 supervision, without any doubt.

27 115 Q. Well, without flagging the Br. M instances, plural,
28 totally to death, would you think that the experience
29 of children in the school with that individual, seeing

1 him continuing to teach, despite having repeatedly
2 given severe beatings to children would encourage them
3 to complain, if they had a complaint about their
4 treatment?

5 A. Well, I mentioned that informal way of making
6 complaints. There were others there then who did
7 perhaps fear that they would be in his class some other
8 time. They weren't under this regime. They would be
9 quite forthright, if they wanted to speak they had the
10 opportunity to pass on fears.

11 116 Q. I know one swallow doesn't make a summer, but if you
12 see someone in a position of authority in an
13 institution, even though a person is not someone you
14 have direct contact with and you know as a matter of
15 fact bad news travels fast, that he's busy going around
16 assaulting people and nothing is being done about it
17 apparently because he continues to be there, he
18 continues to teach and he continues to assault people,
19 do you think that would encourage a child to complain
20 if he had a legitimate complaint about other people or
21 about grievances that he may have in that institution?

22 A. As regards like the frequency of these outbursts, we
23 don't really have any detail on that, certainly the
24 boys were afraid of him. But how often excessive
25 punishment was given, we have no record of that
26 whatsoever.

27 117 Q. Well I am glad you have raised that, I am very glad you
28 raised that, because I honestly thought that wasn't
29 going to be an issue between us, but do you know that

1 there is one instance in the Visitation Reports in the
2 1960's where there is a specific reference in the
3 Visitation Report to the fact that he hadn't been in
4 trouble apparently that year. That's how frequently he
5 was beating children. In ever other instance it comes
6 up. There is an actual reference in that one year. I
7 will get it out for you if you wish.

8 A. I know it.

9 118 Q. You know it, but it is put in capital letters that
10 there appeared to be no trouble this year. So I must
11 respectfully suggest to you that it is habitual?

12 A. It was habitual yes.

13 119 Q. I am not trying to ... (INTERJECTION)?

14 A. But as regards frequency, you know, whether it was on a
15 daily, weekly.

16 120 Q. And if I go back well before the time that this Brother
17 was in the school, something that I wanted to return to
18 and I omitted it when I referred to it briefly when I
19 was talking to you about other matters, the Visitation
20 Report in 1954, I am sorry to drag you back to 1954, at
21 page four of that Visitation Report you will recall
22 that I made some general references to the opinion of
23 the visitor at that particular time in relation to the
24 manner in which the Resident Manager conducted himself
25 and this was his description of this time. It is at
26 page 4 of that particular Visitation Report?

27 A. I have it now.

28 121 Q. There is a reference at the bottom of the page, the
29 last paragraph "general remarks" and it says:

1 "Though there were no specific
2 complaints from the various members of
3 the community, one could not but feel
4 that there is an undercurrent of unease
5 in this community. Though the Superior
6 praised highly, especially the younger
7 members of the staff, they did not
8 appear to be in any way enthusiastic in
9 his phrase.

10 To me, there is something vindictive in
11 the Superior's character. He can be
12 nice to a man until they have a
13 different, then there is a complete
14 change over which is very obvious to
15 all in the community. The Brothers
16 appear to me to be uneasy and to be
17 waiting to see who he will turn against
18 next.

19 His treatment of the boys is reported
20 to be on the same lines. Some he will
21 pet, dress better than others and give
22 privilege to. These may often be the
23 most troublesome in the place. There
24 appears to be a strong idea amongst the
25 boys that those who bring stories to
26 the Superior can count on more
27 favourable treatment than others.

28 It was also reported that the Superior
29 can become almost frantic when
30 addressing the boys and can so terrify
31 a boy in this fashion that they can be
32 known to admit to having done wrong
33 while afterwards it was proved that
34 they were quite innocent.

35 Another curious feature is that
36 frequently if a member of the staff
37 corrects the boy the boy will pout and
38 carry out instructions with very bad
39 grace and often threaten to refer the
40 Brother to the Superior. The staff
41 feel the Superior has taken so much
42 authority into his own hands that the
43 other members of the staff count for
44 little on the boys."

45
46
47
48 Then it recounts the response of the Superior to that
49 particular criticism, that really it is almost

1 125 Q. THE CHAIRPERSON: I understand that. One is
2 struck by
3 the... (INTERJECTION)?

4 A. A very personal one.

5 126 Q. THE CHAIRPERSON: One is struck sometimes by
6 the trenchancy of the
7 comments that the visitor makes, he doesn't hold back
8 when he goes back to the Provincial Council, the letter
9 that comes down to the institution may be a good deal
10 more... (INTERJECTION)?

11 A. Oh that is well watered down. Because the visitation
12 by itself is a personal one.

13 THE CHAIRPERSON: Yes.

14 A. So it is only when it has been sorted out at Council
15 and an agreed letter comes back. But it certainly
16 doesn't make nice reading, there is no doubt about
17 that, but a lot of it is personal and to a certain
18 extent exaggerated.

19 127 Q. MR. CONNAUGHTON: Can I jump over to 1968, it
20 was effectively -- as I
21 understood it, September 1968, a relatively short time
22 before the closure of the institution and certainly
23 after the time when a determination had been made to
24 close the institution, and we have another instance of
25 impermissible corporal punishment taking place on the
26 record. That's contained, I am sorry if it is not
27 paginated. The very first section -- it is paginated.

28 A. I have the page now.

29 128 Q. No, I don't know that you do. If you are using the

1 booklet that I have given you, if you go to the very
2 first section of the booklet and about six or seven.
3 Sorry, the pagination is in the top right hand corner
4 and it is page No. 8 of the very first tab of the
5 booklet that you have, that we have handed in. In mine
6 it is the yellow tab, but I don't think it matters. It
7 is page No. 8, top right hand corner. The pagination
8 is in the top right hand corner.

9 A. We seem to be differing from what... (INTERJECTION).

10 129 Q. You are in the right territory?

11 A. Yeah, we are in right territory.

12 THE CHAIRPERSON: It is a letter to
13 Mr. Barrett.

14 A. I know the letter all right, but to find it.

15 130 Q. MR. CONNAUGHTON: Is there no pagination on
16 yours, Brother?

17 A. There is, but there is another version. I have got it,
18 at least I'm in the area in which I will find it. This
19 is a letter I think... (INTERJECTION).

20 131 Q. It is a letter dated 26th September 1968, is that the
21 letter you have?

22 A. Go ahead. I know the letter in question.

23 132 Q. I would prefer if you have it in front of you. It
24 shouldn't be that far into the booklet?

25 A. Unless it is missing. There are two sets of figures,
26 there is a printed figure and a handwritten figure.

27 MR. LOWE: It is the printed one at
28 the top right.

29 133 Q. MR. CONNAUGHTON: You have it there, I think.

1 "It is alleged by Mr. X that his son,
2 X, has received excessive punishment.
3 In fact what could be turned brutal
4 punishment from certain members of the
5 staff when he was returned to the
6 school after absconding on the morning
7 of. . ."

8 THE CHAIRPERSON: Still go a bit slowly.

9 140 Q. MR. CONNAUGHTON: Sorry, Chairman, I keep
10 forgetting.

11 "The 10th of this month."

12 The letter is dated 26th September 1969.

13 "I categorically deny this charge," I
14 presume that's what it is, "because it
15 was I personally who took him into
16 custody from the Gardaí at midnight on
17 the same day on which he absconded. It
18 was I who administered the punishment
19 which was meted out to him on that
20 occasion in the presence of another
21 Brother who happened to be with me at
22 the time."

23 Then he goes on to describe the punishment:

24 "It is true I used a leather strap as
25 the instrument of correction. I used
26 it on his bottom because I maintained
27 that's where nature intended it to be
28 use in such circumstances. There is no
29 question of the strap having been put
30 around his neck or anywhere near his
31 neck for that matter.

32 I would add here that since the arrival
33 of your letters I have examined the
34 boy's neck and could find not the
35 slightest sign of any mark of bruise
36 which would indicate that he suffered

1 the treatment that he complained of.

2 Neither have I any knowledge of the
3 black eye he is supposed to have
received.

4 One would know that following such
5 alleged treatment, the boy would be
slow to take to the roads again.
6 Still, on 18th inst he and a companion
again made off. This time persuaded
7 another lad to join them.

8 Believe me, sir, this is not normal
9 behaviour of a boy who is being
excessively punished for previous
misdeemeanours."

10

11 I will come back to that in a moment.

12

13 "Mr. Blank holds himself partially
14 responsible for his son's committal to
the school. He maintains the boy was
15 sent for non-attendance at school and I
enclose a copy of the boy's charge
16 sheet, which accompanied him on his
arrival at St. Joseph's. I leave you
to draw your own conclusions.

17

18 Since his coming here he has absconded
on five separate occasions. On the
19 first occasion he stole a lady's purse
and £6.12. He was cautioned by the
Gardaí.

20

21 The second time he broke into a parked
car and stole a deck of cards and other
22 odds and ends of little consequence,
but he was again cautioned by the
Gardaí.

23

24 On the next occasion he stole a peddle
cycle and was once more cautioned by
the Gardaí.

25

26 The fourth break resulted in the
punishment mentioned above and the
story which you related to his parents.

27

28 During the very short time he was away
on this particular occasion, he and his
29 companion stole a bicycle, entered a
house while the occupants were away,
stole food and money to the value of £6

1 which they found in a wardrobe.

2 They also entered a second house, found
3 bags of sugar which they ripped open
4 and then scattered the contents on to
the floor. He also scribbled
school books they found inside.

5 Is such conduct to be condoned. After
6 these latest misdemeanours I had a
7 visit from the Gardaí, who took a
statement from him. We don't know
8 whether or not there will be a court
case.

9 Since this last episode they took to
10 the roads once more. It was on this
11 occasion that they succeeded in
reaching Cork and painting a picture of
12 excessive punishment and of brutal
treatment to which they have supposed
to have indulged.

13 Just half an hour before the arrival of
14 your letter yesterday morning, I
received a phone call from Inspector X
15 of Killarney seeking advices to the
16 advisability of young Blank being
committed to Daingean on account of the
persistent thieving and general
misconduct.

17 I advised against it because of his age
18 and asked the Inspector to do
19 everything in his power to keep the
case out of court for the lad's sake.

20 In view of the cruel allegation brought
21 against us by his father I am beginning
wonder if I acted wisely in asking the
22 Inspector to be lenient with the
offender. Maybe I should have allowed
23 the law to take its course. I fully
appreciate your position and hope the
24 above account will help to clarify a
nasty situation".

25 I want to ask you a few questions about that, on one
26 reading of the letter we have a deputy or acting
27 Resident Manager to the pin of his collar, so to speak,
28 by a boy repeatedly absconding and there is a sense of
29 frustration displayed in the letter. On another level

1 the letter says a lot about the attitude and
2 disposition of the particular individual to the whole
3 issue of an allegation of excessive punishment. I want
4 to explore that with you, if I may for the moment.
5

6 Firstly, I am sure you will concede with me that the
7 punishment he describes as being "what nature intended"
8 certainly has nothing to do with nature at all, it is
9 simply what he intended to do, isn't that right, and it
10 is outside the permitted rules?

11 A. It would be certainly. I notice he has a witness
12 there, he was partly within the rule, according to rule
13 12 of administering punishment with a witness. The
14 type of punishment I wouldn't agree with, without any
15 doubt.

16 141 Q. I don't suppose you are really suggesting in that last
17 comment that beating a boy on the backside with
18 somebody present makes it partially within the rule?

19 A. Well, I am not saying partially within the rule.

20 142 Q. It was an impermissible punishment, full stop; isn't
21 that right?

22 A. Well, certainly, yes.

23 143 Q. It was an impermissible punishment, full stop, there is
24 nothing else to be added to that, it was simply
25 impermissible?

26 A. Uh-huh.

27 144 Q. Can I just turn to other aspects of the letter. Would
28 you agree with me that the final paragraph of the
29 letter is, in effect, saying "because there is a

1 complaint of excessive punishment I think I could
2 easily go back to the guards and suggest that this had
3 be taken through courts." Let me reread it to you:

4 "Just half an hour beforehand I had a
5 phone call from Fahey..."

6 Sorry. "From an individual."

7 THE CHAIRPERSON: It doesn't matter. Fahey
8 does nothing.

9 145 Q. MR. CONNAUGHTON: I didn't mean to mention it
10 at all.

11 "Seeking advices to the advisability of
12 young Blank being committed to
13 Daingean. I advised against it because
14 of his age."

15
16 Isn't that, in effect, a threat that because of the
17 existence of a complaint of excessive punish, "I might
18 just revisit this and teach this lad a lesson by
19 sending him to Daingean"?

20 A. No, I don't think so. I think he's trying to show that
21 there is a leading streak there and he's not anxious to
22 consider it any longer, to consider it closed, which
23 the Department did as well at the time.

24 146 Q. The other thing that struck me about the letter from
25 the point of view of the Congregation's perspective is
26 that isn't it remarkable, even then in 1968, that the
27 personal entrusted with the investigation of this
28 matter and dealing with this matter was the person
29 against whom the accusation was made?

1 A. Well, there was a particular reason for that, he gives
2 -- in the beginning he gives the question there that he
3 had taken the place of the Superior. Actually he was
4 the Superior himself. It was a job to which he was
5 appointed and after a short while, could well be on
6 account of this, that he resigned from that
7 appointment, though he remained on in the staff as
8 assistant manager.

9 147 Q. Maybe it is the poor way I put it and you may
10 misunderstand me as a result. I am asking the question
11 would it not have been appropriate for the Congregation
12 to have ensured that this matter was investigated by
13 someone outside of the school where this incident
14 occurred?

15 A. Yes, well this is the difficulty, you know, when it
16 came this person was in a position of authority. If it
17 had been passed on, if he had passed it on certainly it
18 would have become a Congregation matter. So it was
19 still a local matter. It would have been better to do
20 the other without a doubt. It was kind of an interim
21 period, he himself was rather confused because he was
22 struggling with resigning from a position that he
23 didn't really want.

24 148 Q. There is nothing confused about his letter. And it
25 just -- I have to put it to you, that it is remarkable
26 that he was the person left in charge of dealing with
27 this matter, regardless of his position of authority
28 within the individual school?

29 A. Well, it may have been not to leave a nasty job to be

1 done by his successor that he decided to get it over
2 with himself. But it was still within the school, it
3 hadn't gone overhead. It is a pity the allegation
4 didn't go direct to the manager, which would be the
5 Provincial, then it would have been dealt with as a
6 completely outside matter.

7 149 Q. Well it would have been if it had been drawn to his
8 attention. But surely that's a matter of internal
9 management?

10 A. Well the local people didn't do it.

11 150 Q. That's a failing obviously on the part of the
12 institution?

13 A. Well they felt at the time it was satisfactory. Then
14 there is another copy of this with a handwritten note
15 on it, that it is a note within the Department of
16 Education that says, "we accept that we will accept
17 this explanation." So, whatever the rights and wrongs,
18 it brought a nasty episode to an end.

19 151 Q. That doesn't cast any particular badge of quality over
20 the conduct, no more than the comment that was made in
21 a report in relation to the other institution where the
22 young lad had his jaw broken and the description given
23 on the Department papers was a description that
24 accidental injury during the course of punishment?

25 A. Well that one was dealing with another institution.

26 152 Q. I appreciate it was.

27 A. It was best understood midway through an investigation,
28 when the investigation was complete the whole truth was
29 there.

1 153 Q. Can I turn in this context to one final matter, that's
2 the general conduct and issues of the boys and
3 complaints by the boys and I will be careful, Chairman,
4 how I address this particular point. It has arisen
5 before the Committee of the Commission on an earlier
6 date.

7
8 Again without referring in anyway to names, I think you
9 are aware that certain allegations were made in the
10 course of Phase II, I am not going to go into the
11 allegations, of sexual abuse by members of the
12 Congregation against individuals, and you have given
13 your statement in relation to that based on the records
14 and that is a matter of record before the Commission?

15 A. Yes.

16 154 Q. A specific complaint was made against a named Brother,
17 and it was stated on behalf of the Congregation that
18 there was no question, no record of this but there was
19 no question of there being any misconduct on the part
20 of the individual concerned. And the conduct that was
21 alleged was quite specific at the time. Now,
22 subsequently the Congregation entered into
23 correspondence with the Commission, when I say
24 subsequently, the letter, I think, is misdated 27th
25 January, I think it should read 27th February 2006.
26 But the letter refers to a particular member of the
27 Congregation having referred to the fact of his having
28 reported complaints by boys in the early 1960's about
29 the conduct or alleged conduct of this particular

1 Brother and that was drawn to the attention of the
2 Commission by this letter of 27th February 2006. It is
3 misdated. I want to visit with some circumspection
4 certain aspects of that particular matter.

5 MS. MOORHEAD: Sorry, Mr. Chairman, I am
6 sorry to intervene. Are we
7 not getting into an area which is very much for the
8 Committee to determine in relation to the private
9 hearings, the emergence of that letter, the emergence
10 of how that person came to give certain evidence and
11 the veracity or otherwise of either what they said or
12 why they came forward.

13
14 I am not anxious to cut Mr. Connaughton off. As you
15 will appreciate, it was a matter at the private
16 hearings that required considerable detail from all
17 parties and I am just wondering how we can deal with it
18 in a meaningful fashion in the absence of alluding to
19 the significant evidence we heard in the private
20 hearings. It is obviously a matter the Committee will
21 have to make a lot of decisions on, both in respect of
22 the Brother against whom the allegations are made and
23 in relation to the Brother who came forward --

24 THE CHAIRPERSON: With the information.

25 MS. MOORHEAD: -- with the information.

26 MR. CONNAUGHTON: I think, Chairman, you can
27 be rest assured that the
28 course of questioning that I am going to pursue is not
29 a course of questioning that is going to be directed at

1 the veracity or otherwise of the allegations. But it
2 is more to do with the circumstances of the letter, the
3 oral hearing that took place on 10th January 2006 and
4 anything that this particular Brother can do to shed
5 light on the investigation in relation to the matter.
6 Nothing more than that.

7
8 And, in my respectful submission, they are matters that
9 are relevant to this particular Brother's testimony and
10 nothing more. I don't intend to delve into the
11 substance --

12 THE CHAIRPERSON: All right. Just give me a
13 moment.

14 MR. CONNAUGHTON: -- of the matters in
15 question.

16 THE CHAIRPERSON: Mr. Connaughton, our
17 position is this: Nothing
18 you have said so far is in anyway improper or
19 illegitimate, inappropriate. The situation we don't
20 want to get into, because it is quite unsatisfactory
21 and is not warranted, I am not suggesting this is where
22 you are going, I just want to establish where we are.
23 The situation we don't want to be in is where, having
24 heard fully a particular issue in private we then, so
25 to speak, trace over the contours on the map with codes
26 in that this -- there is no point in doing that, I am
27 assuming that that's not where you are going.

28
29 But what we propose to do is to say nothing you have

1 said so far is in anyway inappropriate. If the matter
2 is relevant we will carry on and at a point when we
3 think that's crossing a line we will draw your
4 attention to it and we will stop it.

5 MR. CONNAUGHTON: Very good, Chairman. I
6 have only two basic
7 questions that I want to ask the witness.

8 THE CHAIRPERSON: That's reassuring. It
9 doesn't matter how many, it
10 is not our decision. Our attitude is not predicated on
11 the number of questions.

12 155 Q. MR. CONNAUGHTON: Brother, I don't intend to
13 go into any -- these
14 matters have already been canvassed in private. I
15 don't intend to go into any of the details pertaining
16 to this matter, but I do want to ask you something
17 about -- first, do you have a copy of that letter?

18 A. I don't.

19 156 Q. We will get you the copy.

20 A. I don't, but I know the contents.

21 157 Q. I would prefer you to have the letter in front of you.
22 (SAME HANDED TO THE WITNESS)

23 A. Thank you.

24 158 Q. I only want to refer you to one paragraph, which is the
25 second paragraph of the letter. Can I just ask you in
26 relation to that, there is a reference made to a date,
27 a date of 16th January 2006, and a particular meeting
28 having taken place on that date. Now, you weren't
29 involved in that meeting; isn't that right?

1 A. No.

2 159 Q. Were you aware in advance that that meeting was due to
3 take place?

4 A. No.

5 160 Q. Did anybody consult you in relation to that meeting
6 taking place?

7 A. No.

8 161 Q. Do you have any knowledge of when that meeting was
9 arranged?

10 A. I didn't know anything about it being arranged, no.

11 162 Q. So you knew nothing about that meeting or prospective
12 meeting prior to its taking place?

13 A. That's true, yeah.

14 MR. CONNAUGHTON: That's as far as it goes
15 with that particular
16 witness. Thank you, Chairman.

17

18 END OF EXAMINATION OF BR. NOLAN BY MR. CONNAUGHTON

19

20 THE CHAIRPERSON: Very good. Thank you very
21 much.

22 MR. WARD: I just have a couple of
23 matters that I would like
24 to put to you this morning.

25 THE CHAIRPERSON: Yes, Mr. Ward.

26

27 BR. SEAMUS NOLAN, WAS FURTHER QUESTIONED, AS FOLLOWS,
28 BY THE COMMISSION:

29

1 163 Q. MR. WARD: Br. Nolan, in your
2 submission, if I could just
3 quote you by saying that:

4 "Brothers who were staff at different
5 times remember occasions when
6 inappropriate sexual activity between
7 the boys was discovered."

8 Could you tell us a little bit more about that?

9 A. Well, there is reference I think in discovery documents
10 to a letter from early 1940's that one of the staff
11 sent word to headquarters. I am not sure whether it
12 was through the visitor or direct, but he had a number
13 of points that there was inappropriate behaviour
14 happening at various places, at a time when supervision
15 should have been in operation. And he called for --
16 well, first of all, a certain older person was
17 supervising quite often. So he mentioned, I think,
18 that that person should not be a supervisor, at least
19 in that area at that time. Generally, a tighter
20 supervision. I think it was part of the farmyard area.

21 164 Q. That's right.

22 A. I think. Well there was another part of the actual
23 schoolyard could have been mentioned as well.

24 165 Q. So in relation to the supervision, what sort of
25 supervision did the Brothers do in the school for this
26 particular problem?

27 A. We had no idea except to put a younger man on the job.
28 That's what I would expect. It was a custom in a
29 number of other schools that a retired person anxious

1 just to be helpful in the school would supervise the
2 primary schoolyard at lunchtime and that same continued
3 on into Industrial Schools as well. So a person who
4 might perhaps be a little bit beyond it, but anxious to
5 help, and certainly that people were liable to be
6 relieved anxious to avail of the service allowed a
7 person perhaps a little past that type of work to do
8 it. So he drew attention to that fact in a particular
9 case.

10 166 Q. Were instances of peer sexual abuse recorded?

11 A. No.

12 167 Q. So how did the new Brother coming into the school know
13 who was potentially a problem?

14 A. He must have found it out either by happening upon an
15 incident himself and checking it, or that some of the
16 boys told him, there was nobody else, the supervisor
17 had missed it, so apparently there was nobody else to
18 tell him. Except it came maybe through the boys
19 through another staff member or else he found it
20 himself, it is not mentioned.

21 168 Q. Also in the discovery documents I notice, Brother, that
22 there was a letter there to the Department stated that
23 they requested the transfer of three boys to Daingean
24 because of moral problems?

25 A. Yes.

26 169 Q. Can you tell us why some instances where boys were
27 caught doing this activity they would be transferred
28 and on other occasions they would not?

29 A. No, I only have to follow the documents that were

1 first of all, General Council, the only one we had,
2 then sufficient schools in Ireland by 1924 and the
3 Irish province was set up, that included England, by
4 the way, as well at that time. English province was
5 set up after World War II, they had sufficient to look
6 after themselves. Irish province then just got
7 unwieldy and it happened at the last Council, as I
8 mentioned, they had a lot of difficulty with illness
9 and it highlighted the fact that this kind of pastoral
10 care which the visitation carried out it just couldn't
11 be done with the manpower that was available at time.

12
13 So, it was happening abroad as well. It was happening
14 in Australia, so it wasn't a new invention. A division
15 was made into two provinces. The dividing line,
16 roughly speaking, was a line between Dublin and Galway.
17 Actually it was a religious one, it was the Parch
18 province of Tuam which was all the diocese under Tuam
19 and the Archdiocese of Cashel and whatever was left in
20 Dublin.

21 173 Q. THE CHAIRPERSON: All right, but that was
22 dividing between St. Mary's
23 and St. Helen's?

24 A. St. Mary's was the northern one because their
25 headquarters was in St. Mary's, Marino which happened
26 to be the generalate at the time. The other one was
27 the original house of the Irish province, St. Helen's
28 in Booterstown and it gave a name to the province.

29 174 Q. THE CHAIRPERSON: So this change happened in

- 1 1956?
- 2 A. Yes.
- 3 175 Q. THE CHAIRPERSON: So in 1956, the Provincial
4 headquarters relevant to
5 Tralee was in St. Helen's?
- 6 A. Yes.
- 7 176 Q. THE CHAIRPERSON: And before that?
- 8 A. Well it was still St. Helen's because they looked after
9 the whole country, as it was.
- 10 177 Q. THE CHAIRPERSON: So for our purposes it is
11 really St. Helen's?
- 12 A. St. Helen's all the time.
- 13 178 Q. THE CHAIRPERSON: Before that it was the
14 Irish province; is that
15 right?
- 16 A. That would be it, yeah, that would be the official
17 title, from 1954 on.
- 18 179 Q. THE CHAIRPERSON: Whether it was the Irish
19 province or the St. Helen's
20 province, there was a Provincial Council there?
- 21 A. That's it.
- 22 180 Q. THE CHAIRPERSON: That lasted for how long?
23 Sorry, how long did a
24 person remain on it?
- 25 A. Six years.
- 26 181 Q. THE CHAIRPERSON: Six years?
- 27 A. They were elected for six years.
- 28 182 Q. THE CHAIRPERSON: Elected by whom?
- 29 A. By a chapter, which would be an elected group from the

- 1 189 Q. THE CHAIRPERSON: It is then replaced?
2 A. Replaced, yeah.
- 3 190 Q. THE CHAIRPERSON: A new number of people,
4 except for the bursar or is
5 the bursar replaced?
6 A. The bursar could be replaced, it is up to the next
7 Council to choose.
- 8 191 Q. THE CHAIRPERSON: All right. What system is
9 there there, I know this
10 relates to somethings, we say "how could it have
11 happened that you knew this was going on and nothing
12 was" -- or whatever, and I just want to know what is
13 the continuity there? There are files obviously, they
14 keep records, people keep records in this?
15 A. Yes.
- 16 192 Q. THE CHAIRPERSON: There is a secretarial
17 staff of some kind, there
18 is a person there?
19 A. There is. All that is just office staff really, as
20 such. But as regards the continuity of the Council, it
21 wasn't absolutely essential that the whole Council
22 would be replaced, that there was a possibility in all
23 appointments, whatever their length, of a second
24 appointment. So you could have got another six years.
25 In some cases that did happen, either a Provincial
26 remained or a member of a Council became Provincial the
27 next time. After 12 years our time was up.
- 28 193 Q. THE CHAIRPERSON: The other point where all
29 this is getting towards is

1 this: What system was there for removing a Resident
2 Manager? Suppose the visitor comes back and he says,
3 "the place is dreadful, you have to do something about
4 it." Now, he might be a member of the Provincial, and
5 he comes back, one doesn't seem to find examples where
6 somebody says "right, let's move him"?

7 A. It wouldn't be an easy position. Unfortunately, from
8 this particular point of view it wasn't just an
9 administrative one, there was the religious life aspect
10 as well, because removing a Superior, it could be done
11 by a stroke of a pen if things were bad enough.

12 194 Q. THE CHAIRPERSON: Can you think of an
13 instance where it happened?

14 A. I can't. There was a mention yesterday in a completely
15 different case, in a completely different place, it
16 just happened to arise in questioning. In the
17 particular case, I had a vague connection --
18 recollection of having heard something about it at the
19 time, there was a grave suspicion that it wasn't as bad
20 as it was, so the man kept his title but to another
21 place. But in the Industrial Schools I have not found
22 it, whether it happened or not I don't know.

23
24 Oh, excuse me. I think it did way back in the 1920's
25 in one of our places in the west, I am not sure which,
26 I think there was a replacement of a Superior, but I'm
27 not certain.

28 195 Q. THE CHAIRPERSON: But during our relevant
29 period?

1 A. No, certainly not.

2 196 Q. THE CHAIRPERSON: I can't think of a single
3 instance where anything
4 like that happened or even was seriously threatened?

5 A. I don't think so.

6 197 Q. THE CHAIRPERSON: It doesn't appear that
7 however bad things are,
8 sometimes, as I say, with considerable trenchancy the
9 faults are laid out, but it seems to be that the
10 Superior was there for however long he was appointed
11 and maybe we will do better with the next fellow is the
12 hope?

13 A. Was there was an opportunity after three year, the
14 Superior's appointments were three year ones and they
15 had the option of resigning, or being resigned, if that
16 were necessary. So that option was there. But it
17 doesn't seem that was used in Tralee, as far as I can
18 see.

19 THE CHAIRPERSON: Thank you very much. Very
20 good.

21

22 END OF FURTHER QUESTIONING OF BR. NOLAN BY THE
23 COMMISSION

24

25 UNKNOWN SPEAKER: Mr. Chairman, can I speak
26 please?

27 THE CHAIRPERSON: No, sorry.

28 UNKNOWN SPEAKER: Can you appoint a lawyer to
29 speak to him, so he can

1 speak to you?

2 THE CHAIRPERSON: Mr. Ward will have a word
3 with you.

4 UNKNOWN SPEAKER: Hello. I put a question
5 forward that has not been
6 asked by one of the representatives.

7 THE CHAIRPERSON: Have a word with Mr. Ward.
8 Thank you.

9

10 THE HEARING THEN CONCLUDED AT 12:12 P. M.

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