COMMISSION TO INQUIRE INTO CHILD ABUSE

PUBLIC HEARING

HELD AT HERBERT PARK HOTEL
BALLSBRI DGE, DUBLIN 4

ON TUESDAY, 20TH JUNE 2006 - DAY 228

EVIDENCE OF MR. PAUL GILLIGAN

BEFORE:

MR. JUSTICE SEÁN RYAN
CHAIRPERSON OF THE INQUIRY

and

MS. MARIAN SHANLEY
MR. FRED LOWE

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

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MEMBERS OF THE COMMISSION PRESENT:

REGISTRAR TO INVESTIGATION COMMITTEE: MR. B. REEDY

COUNSEL FOR THE COMMISSION: MR. N. McMAHON SC
MS. L. RATTIGAN BL

Instructed by: MS. E. McHUGH

FOR THE DEPARTMENT OF EDUCATION AND SCIENCES: MR. C. DIGNAM BL

Instructed by: CSSO

MR. P. GAGEBY SC

Instructed by:

MR. D. McGRATH SC

Instructed by:

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THE HEARING COMMENCED AS FOLLOWS ON TUESDAY, 20TH JUNE 2006:

THE CHAIRPERSON: Good morning.

MR. COONEY: Mr. Justice Ryan.

THE CHAIRPERSON: Hold on for a minute, we will get this over with, first of all.

MR. COONEY: First of all, would you please hear me. I have a specific formal request to make of you.

THE CHAIRPERSON: Very good. Yes, all right, Mr. Cooney.

MR. COONEY: I would ask you to grant me legal representation.

THE CHAIRPERSON: Yes. Well, there is no need for you to be granted legal representation, Mr. Cooney, at least at this point. If the question arises when you need to be granted legal representation, then you need to be granted legal representation.

MR. COONEY: I think the situation has already arisen, namely yesterday, when the remarks were made and you did not protect or vindicate my legal rights yesterday.

THE CHAIRPERSON: We have heard that, Mr. Cooney, and you have made that position clear.

MR. COONEY: It is a legal position.
But I am seeking representation now. I think it is a valid request.

THE CHAIRPERSON: Very good. Let’s leave that request for the moment, Mr. Cooney. I have indicated that, certainly in my view, there is no need for that at this moment but I just want to wait for a moment because I know that Mr. O’ Sullivan wants to say something, so we are going to hear what Mr. O’ Sullivan has to say and we will see what happens.

MR. COONEY: And his statement is without prejudice to my position.

THE CHAIRPERSON: What statement is without prejudice to your position?

MR. COONEY: Whatever statement Mr. O’ Sullivan makes on behalf of Mr. Lankford, I consider it is without prejudice to my own position in seeking legal representation. If need be initiating measure -- you know, legal remedy to defend myself against the moral and material damage that has been done to me inside of this Commission.

THE CHAIRPERSON: Do you want to get yourself a chair or to sit down there for the moment, Mr. Cooney, and we will see what happens and then we will proceed. Please pull up so that you can sit at the table.

MR. COONEY: Thank you.
THE CHAIRPERSON: All right. Now, Mr. O'Sullivan.

MR. O' SULLIVAN: Thank you, Mr. Chairman. I appear instructed by Maxwell solicitors and with your permission I would like to address the Commission briefly on comments that were made by Mr. Padraig Lankford in relation to Mr. Cooney. Mr. Lankford has instructed me to read out an apology to Mr. Cooney and to the Committee. With your permission I will now do that.

THE CHAIRPERSON: Yes, please do that.

MR. O' SULLIVAN: Yesterday morning during the course of a hearing before the Committee Mr. Padraig Lankford, solicitor, interrupted the examination of a witness by Mr. David McGrath, senior counsel, and made comments which were critical of Mr. John Cooney, author and journalist. Mr. Lankford now wishes to withdraw absolutely these comments, and any other comment which he made during the course of his intervention which might be interpreted as being critical of Mr. Cooney. He also apologises unreservedly and without qualification to Mr. Cooney for any offence which these comments may have caused.

During the Mr. McGrath's examination, Mr. Lankford suddenly became concerned that an incident referred to in a book written by Mr. Cooney would be mentioned before the Committee, notwithstanding that the Chairman
of the Committee had stated at the public hearing on Tuesday, 13th June 2006 that the Committee would not have any regard to the matter unless the Committee was referred to it in writing. It was in this context that Mr. Lankford spontaneously made his personal intervention in the heat of the moment, so to speak.

He accepts that the comments were inappropriate and for that reason he is now happy to issue his unreserved and unqualified withdrawal and apology and for it to be read into the record of the Committee's hearings.

Further, Mr. Lankford apologise to the Committee for any inconvenience which his comments may have caused to it and he hopes that this statement will put the matter right. That's the conclusion of the statement and apology, Mr. Chairman.

THE CHAIRPERSON: Thank you very much. Yes, Mr. MacMahon. I am sorry, Mr. Cooney, yes.

MR. COONEY: I would request that you adjourn in order to give me time to have legal advice as to regard my position in the light of the statement and combining that with my request for legal assistance.

THE CHAIRPERSON: All right. Well, we have a request for legal representation by Mr. Cooney arising out of events which happened yesterday. Since then we have had an
apology by Mr. O'Sullivan on behalf of Mr. Lankford in request of the comments made. Nothing that happens here, or nothing that we say or determine here, affects in any way any rights that Mr. Cooney has and he is free, of course, to seek legal advice as to how he should proceed. That's entirely a matter for him and we say nothing about that and nothing I say is going to impair any rights that he has.

As to the question of legal representation. There is nothing that is within the remit of the Committee or the Commission which could be investigated that would be a relevant matter and there is no question in the circumstances of any legal representation being granted that would create an issue that would not be a proper issue for this Inquiry, this Tribunal. But, as I say, nothing of this in any way affects anything, any entitlement of Mr. Cooney to seek such redress as he may be advised or as he may think proper.

But in the circumstances, we note what has been said by Mr. Cooney and by Mr. O'Sullivan on behalf of Mr. Lankford. So we now proceed with the matter. Yes, Mr. Cooney.

**MR. COONEY:** I take your point and I will pursue this and take legal advice. Given, however, that the remarks which I regard as grossly defamatory were said in this Commission and were unchallenged until several hours
Later I had to seek vindication of my position. I think and I am convinced that you were in dereliction of your duties as Chairman of this Commission and I would ask you to consider your position as Chairman of this Commission pending the resolution of my legal complaint, of which I am not being granted legal representation by the State.

I consequently ask you to adjourn to give me time as a private citizen who has had to go off the story today from my newspaper the Irish Independent, who has suffered trauma last night and yesterday because of the inaction of this Committee in defence of my rights, I do not think in conscience that you can continue this hearing until my particular case is underway in terms of legal advice.

I stand here unprotected in law and I think it is disgraceful that you have not granted me legal rights. Mr. Lankford here is sitting with his legal representatives, a whole quarry of lawyers, and I am here looking for representation and I am denied it. I think this is an appalling miscarriage of justice and I think you should be ashamed of yourself, sir, in this Commission. Once again I think you should consider your position.

THE CHAIRPERSON: Very good. Thank you, Mr. Cooney. Now we propose to succeed, there is a lot of other -- there is a lot
of work to be done today. Yes, Mr. MacMahon.

**Mr. MacMahon**

Yes, Chairman. The next witness who it is proposed to call is Mr. Paul Gilligan, who is the Chief Executive Officer of the Irish Society For Prevention of Cruelty to Children. Perhaps Mr. Gilligan could be sworn in.

**The Chairperson:**

Yes. Good morning, Mr. Gilligan.

**Mr. Paul Gilligan, having been sworn, was questioned, as follows, by the Commission:**

1 Q. **Mr. MacMahon:** I think, Mr. Gilligan, as I said, you are the Chief Executive Officer of the ISPCC and I think that's an organisation was is in existence since 18th January 1956?

A. That's correct.

2 Q. I think prior to that, the functions of the ISPCC were performed by the National Society for the Prevention of Cruelty to Children which is a London based organisation which had branches in Ireland from 1889 up until 1956?

A. That's correct.

3 Q. I think the ISPCC was created on 18th January 1956 and it took over those functions on 1st March of that year?

A. That's correct.

4 Q. I think it assumed responsibility for all the work
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previously done by the NSPCC?

A. That's correct.

Q. I think for the purpose of preparing a statement for the Commission and also for the purpose of preparing to give evidence to the Commission, the Society has relied on various sources of information. I think, first and foremost, a review of documentation in the possession of the Society was performed?

A. That's correct.

Q. I think that the information available, which has been referred to in the statement provided, comprise of some original sources, Inspector's handbooks, that kind of thing, and also a number of reviews which were prepared over the years and presented on behalf of the Society?

A. A number of annual reports, that's correct.

Q. I think there is some limitation of the documentation which is available, I think that's partially explained by a fire which occurred in the Molesworth Street office of the Society, I think it was in 1961?

A. That's correct, there are significant limitations in the amount of material available to us. Unfortunately, we don't have an explanation as to where the other material has gone, there was a fire in our head office in 1961, perhaps material was destroyed in that. With the change, with the formation of the ISPCC in 1956 perhaps some material was brought over to London to the headquarters of NSPCC. Certainly some annual reports were brought over there and some administration files, but unfortunately we cannot account for where the files

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are gone or material is gone.

Q. Have inquiries been made in London as to whether papers were sent there and what papers reside there?
A. Yes, the inquiries we made to London have indicated that they are not in position of any case material, that we have annual reports, copies of which we have now obtained and have in our head office in Molesworth Street. So it would appear that they are not in possession of any case files at this moment in time.

Q. I think in preparing for the statement and for your evidence there has been some liaison with former staff of the Society?
A. That's correct.

Q. I think those staff members who survive were contacted in writing, I think?
A. That's correct. In preparation for our statement to the Commission we wrote to 46 former staff based on having addresses for those staff and based on our judgment as to whether they would have any information to give us. Now, previously we had written to a small number of staff in attempts to find where the files may have gone. Out of those staff, very few numbers, actually, we were in a position to contact. Very few came back to us. We have overall in the last five years talked to five social workers, one inspector, a CEO, a previous CEO, a financial fundraising person, an administrator, a chairman and a board member. So 12 members of staff in total over the last three to four years.

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Mr. MacMahon: I think you are here representing the Society to answer any questions that may arise and I think that questions initially are going to be raised by Mr. Gageby and I think Mr. McGrath then may have some questions for you and I may have some follow on questions after that.

The Chairperson: All right. Thank you.

Mr. MacMahon: Thank you.

End of questioning of Mr. Gilligan by the Commission

The Chairperson: Now, Mr. Gageby.

Mr. Paul Gilligan was then examined, as follows, by

Mr. Gageby:

Good morning, Mr. Gilligan.

A. Good morning.

11 Q. I appear as amicus curiae to the Commission. I think you have very helpfully put together a large amount of materials to assist in looking at the background to the committal of children to the industrial school system?

A. Yes. Well, we have attempted to cooperate fully with the work of the Commission. We welcome the opportunity to be able to contribute to the work and hope that we can clarify some of the roles of the ISPCC. So we have engaged consultants in the last few months to review the
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documentation. We had archived the files a number of years ago and we have responded to discovery orders and attempted to locate as much information as we can.

12 Q I think, looking at the documents, firstly we have the more formal documents which would deal with the establishment of the Society, the Inspector's rule books and the like. We then also have some case files, not countrywide unfortunately; isn't that correct?

A. That's correct. We have annual reports, in fact dating back to 1900. Pre-1956 those annual reports consisted of branch reports, which makes reviewing of them quite difficult because it would be 13 or 14 reports for each year. But from 1956 onwards we have annual reports for each year pertaining just to Ireland, the ISPCC. The situation with the case files is we have 8,000 old case files. They relate to specific areas, Mayo, Wexford and Cork, I think are the three areas. So there is no case files existing relating to other areas unfortunately.

13 Q Just so we get an overview, because I think the main interest of the Committee is probably really from the mid-1930's through to the 1970's. Firstly, roughly -- we know the Society was organised in local divisions, roughly how many inspectors would have been operating, and it is a very rough estimate, let's say in the 1930's and were these people full time?

A. Yes, we estimate that we have 14 branches within Ireland and that there was an Inspector connected to each branch. At some stage, and we suspect it may have
been later, perhaps in the 1940's or 1950's, Dublin was divided into five areas and an Inspector was employed for each of those areas. I think, basically the review of the material, it would appear that we have 14 Inspectors which later raised to 18 Inspectors, five of which were based in Dublin.

14 Q. Were these people full time?
15 A. Yes, they were full-time employees.

15 Q. What was the essential remit of the Society both theoretically, in other words under the rule book, and, in fact, in the 1930's what was the function of the NSPCC in Irish Society?
16 A. The functions of the Society remarkably have remained consistent pretty much to the 1970's and were identified when the NSPCC was first established.

16 Q. In a nutshell that would be?
17 A. To prevent the public and private wrongs of children and the corruption of their morals, to prevent the corruption of their morals. To take action for the enforcement of laws for the protection of children. To provide and maintain an organisation for the above objects and to do all such things that are lawful to ensure that these objectives are obtained. Those key -- that mission statement is identified in the Royal Charter -- but it is consistently restated in the annual reports right the way up to the 1970's.

17 Q. So would it be true to say this was -- to use the modern phrase, child centre, that had the welfare of the child was first and paramount consideration?
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A. Yes, it is very difficult to judge -- review the material, other than to say that clearly from the annual reports and from the Inspector's directory, of which we have two copies, a 1947 copy and a 1960 copy which has some slight amendments, yes, it is a clear statement that the protection of children from cruelty -- the prevention of cruelty, the protection of children was the core mission statement and was the driving principle of the organisation.

Q. Reviewing the materials, how typically might an Inspector, either in a rural or an urban area, come to visit a family or to investigate a child and its welfare?

A. Well, the annual reports, I suppose, provide us with a rich source of information, vis-a-vis that. Just two points to make on that: In most of the annual reports there is an identification of the referral source to an Inspector and there is also a clear indication of the nature of the complaint or what the category of the complaint would be viewed as. I suppose there is two key points to make on that: The category of complaint is clearly related to the 1908 Children Act which was the legislation that appeared to drive the work of the ISPCC, NSPCC Inspectors. So the categorisation of the types of referrals related directly to the Children Act.

The sources of referral, the bulk of the referrals, the categories were general public, the Gardaí, school.
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officials, other officials and discovered by Inspector, they would be the five categories of referral that are identified in the annual reports. By far the bulk of the referrals came from the general public.

Q. So that might be somebody dropping a line to an Inspector and saying, "this family seems to be in a bit of problem or the children appear verminous", or something like that?

A. That's correct. It would be a neighbour or a concerned person writing or talking to an Inspector directly. It would also include -- and the case material on any of the reports support, would also include self-referrals, parents approaching the Inspectors themselves. We don't have -- unfortunately, the annual reports don't identify that as a specific category. But there is some research commissioned as part of a PhD that would have indicated as high as 60% of the cases that were reviewed by that researcher were self-referrals, people who approach the Inspector themselves. Of those cases that resulted in a committal.

Q. Does that appear to indicate that the Society and its Inspectors were viewed well by people as being trustworthy and not partisan?

A. Well I suppose I can only answer that question by looking to the modern day Society and saying to you that any charity or organisation in a position of ours will judge their credibility, so to speak, with the public on two issues, the number of referrals you will receive directly from the public and your fundraising
income and whether they support you or not. I think in both of those measures, the annual reports clearly indicate that -- I mean, you are talking averages 70% referrals came from the general public. All of our income, up to 1963, was fundraised income, enough money to fund right the way through a world war effectively, to fund 14 Inspectors. I think, but I can't answer this specifically, that there was public confidence in the work of the NSPCC/ISPCC.

21 Q. I think one of the other attributes, we know that between the 1930's and the 1960's the publically maintained institutions were all run by the religious. Had the Society any relationship with the religious -- any religious form?

A. Well the patrons of the Society, if you review the annual reports, the patrons of the Society were -- there was representation from both the Catholic and Church of Ireland religious, the Archbishop, the primary of all Ireland in both cases, the President in -- well, with the founding of the State, became a patron. But the relationship that appears to emerge from a review of the material with the industrial schools and the religious who ran the industrial schools was primarily to do with the availability of places for children. There is some evidence of communication but it is centred around whether there was places available. There is some communication from industrial schools indicating that they had places available. There is also some small amount of
communication regarding parents seeking the return of
their children or the Department of Education seeking
the return of children to their parents.

Q. Okay. Thank you very much. Could I come back and
let's try and take a snapshot of the mid to late 1930's
of the type of cases that the Society was dealing with,
the way in which problems were sought to be solved and
the relationship between that and committal. Now, I
think you have been able to abstract a number of
surviving cases which I am not actually going to invite
you to tell us much about, but what in the 1930's
appeared to be the primary difficulties which caused
the NSPCC Inspector to call, as it were?

A. Well I think the source of information, as you quite
rightly point out, some available case material on the
annual reports. But I think -- and it is very
difficult to make an exact judgment about the dynamics
within a case, but I think that neglect -- what was
categorised as neglect appeared to be the single
biggest factor resulting in referrals and subsequently,
it would appear, committals. I think that it is clear
that the circumstances in which the families lived in
that time were extremely difficult.

Q. Would you like to say something about what housing
appears to be?

A. Housing, in some of the cases the housing was described
as filthy, squalid. There is reference in the case
files to no proper sanitary conditions. Many children
and parents living in very small accommodation. Some
of the descriptions also -- well, employment was a huge issue. The number of children and trying to feed them I mean, there is number of references through the annual reports and cases regarding sort of -- in one case -- in one annual report it talks about the poverty line and the NSPCC are arguing that there is no formal poverty line but arguing that the amount of money that people are living on is simply too low to feed.

Q. For instance, if we are to go back and you are talking about neglect, I think what the reports indicate, which is obviously what the Inspector thought, it could be as simple as just dirt and verminous hair, insufficient bedding, large number of people living in very small amounts of accommodation, perhaps six to ten people in one room, children of all sexes and adults in the same bed and the like?

A. That's correct.

Q. That's not untypical. That's also in rural and also in some of the towns?

A. That's correct and in Dublin city itself and in Cork.

Q. One of the ways that the Inspectors were asked to intervene was there to try and make application to the local authorities for rehousing, the provision from the public assistance officer of clean bedding or the sterilisation of bedding that was there, procuring additional clothing, that sort of stuff?

A. Yes, that's correct. It would appear from the annual reports and case files that the Inspector conducted their business very much as the Inspectors directly
would have determined. It is very clear from that and from the annual reports that they were obliged to make every attempt to support the family, to persuade either through information support or warnings, the parents to take their responsibilities to care for their children seriously. It is mentioned in the directory that any Inspector who simply seeks a prosecution of a family is liable for dismissal, for example.

So, I think it is best to say that the Inspectors appeared to focus on practical support. It wasn't about providing counselling or social work, as we understand it today. It would be very much about trying to organise clothes, perhaps in some cases organise a job, certainly medical care for children, in some cases housing. But it is clearly practical support and also providing the parents with clear indication of what would be expected.

Q: In many of these cases it may be parents who were, in a sense, a bit adrift and the Inspector could be an interface with applying to the local clinic for some medical assistance or local GP or to the public assistance officer or to the housing authority, if any. Those sort of things were things that classically seemed to have been done by the Cruelty Man, as he was known; isn't that right?

A: That's correct. I understand that the Inspectors were known in some areas in the country as the Cruelty Man. But, yes, I mean, I think one of the things that comes
clearly from the -- sorry, I should probably point out that the annual reports contain case examples, so although we might not have the actual case material they have case examples. The combination of factors is striking. I think very often -- if I can find the reference. I mean, for example, the directory would talk about looking at evidence, things like is the man and woman earning any money? What would they earn if they were working? Does the man -- what does the man allow the woman for housekeeping? What rent are they paying? So I think there was an assessment of their means. But alongside that a lot of the cases talk about dirty children, dirty conditions, alcoholism abandonment by fathers and then there would be a separate range of cases that deal with unmarried mothers and what they term as illegitimate children.

28 Q: Yes. Before we come to that, just looking at the issue of, to use the modern phrase, what services were available to people who were being visited by the Cruelty Man, this is obviously before even an incipient social welfare State is there, who else apart from the Cruelty Man might be liable to call on a family in terrible difficulties, I'm talking about the 1930's and 1940's?

A: I wouldn't certainly be as knowledgeable as others would be in that area. I mean, from the case files, I think, there certainly would be other people that would have been involved with families, either through the Inspector getting them involved or they would have
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29 Q Well you could have had the Vincent dePaul or the Legion of Mary perhaps on the voluntary side?

A. The Vincent dePaul would arise in some of the annual reports that we reviewed. The Legion of Mary didn't. Medical services would be important, housing authorities or housing officers. The corporations and Councils appeared to have had the responsibility for caring for children before the establishment of the health boards, they would appear to have been the authority that would have decided on whatever relief, whether that be poor relief or social services relief, that the families might have been eligible for. The ISPCC/NSPCC had a clothing branch which was also involved. I think they would be primarily the others that come up from the case files.

30 Q Just looking at the economic circumstance from the late 1930's let's say, if your reports would indicate roughly what appeared to be the income of the family, what the father, because that was usually the case, was earning, what the rent was, any other outgoings, in the case of unemployment, I think, it would indicate what he would be getting on unemployment assistance if he was eligible, if not eligible what he might be getting on public assistance, if he got it; isn't that right?

A. That's right. The assessments of the families were very practical assessments.

31 Q Of course one of the difficulties was that the public assistance was discretionary and it seems that in a
number of the cases looked at by the Inspectors there may have been a refusal to actually grant public assistance and there may have been intervention to try and secure that as a very small amount of money towards the family income?

A. That's correct. A number of the annual reports raise the issue of the lack of -- the low rate of public assistance, whether it be the poor, I am not sure the actual term the poor relief and social services relief. One of the annual reports identifies -- gives a very strong argument for the fact that it costs more to place a child in an industrial school than it would if they increased the social services relief. I think that relates to the 1940's.

Q. Then I think the children's allowance came in during the war and that was, I think, the first, as it were, flat rate payment to a family, isn't that right, of a modest amount, but it was the first?

A. I am afraid I can't answer that question, I'm not sure.

Q. But the Society, I think, ever year in its report did a number of things. Firstly, it gave a case example so that people outside of the system, as it were, could appreciate the levels of poverty and difficulty for people in the country; secondly, it indicated what actions it had taken; isn't that right?

A. That's correct. If you look through the annual reports there was a section that effectively, as you quite rightly say, identified specific concerns that had arisen that year, mainly with policy issues. 1935/36
they talk about mentally defective children, epileptic children and children in overcrowded housing, for example. It would seem from the annual reports that they were lobbying and campaigning on these issues because there are some examples where they identify that a change has occurred and that the Society had, in some level, instigated or certainly had influenced that change. In 1937/38 they talk about the home assistance being inadequate, they talk about juvenile delinquency. In 1938/39 they talk about bad housing and slums and inadequate poor relief and begging. There is lots of examples through the annual reports of, I think, what would be deemed in this day and age to be considered campaigning and lobbying for social change.

Q. If we were to try and do a breakdown of the cases where the Cruelty Man called and what might happen, I mean, firstly, what was the main aim of the Society when the Cruelty Man called, what was the ideal situation to happen after he called?

A. Again the directory and the annual reports appear to be at pains to emphasise the fact that the role of the Inspector is to ensure that change occurs for the child, that the parents are either supported or warned to make change for the child so that the child is adequately cared for and protected. That's re-emphasised right the way through the reports. I think that the next step was to try and obtain practical support for the family.

Q. Okay.
A. Again to emphasise that that tended to be very practical, whether that be housing, or a job, or clothing or medical assistance. Again, there is examples of how that has happened through the case examples of getting the child to the doctor, insisting that the child be taken to the hospital. There is one case example that we gave in our statement of a family with a child with cleft palate and the work that was done by the Inspector to ensure that the child was cared for medically.

They also engaged in what they called supervision visits and the directory clearly identified how those supervision visits should be conducted. It says they must be conducted, they were obliged to keep reports of the work they did. If there wasn’t change and they felt there was no other option then they would move to look at alternative care for the child, it would appear, and that’s when the issue of committal would have arisen.

Q. Just before you come to that, I also think there was a number of other functions because it was originally the National Society, there were clearly branches in the United Kingdom and I think the records indicate, and in fact the Commission has also seen in private session, aspects where occasionally one or other parent has gone to England, particularly in the case of the father, if working and their attempts were to find him if there had been some slow down or abandonment of sending money
back?
A. That's correct. There are a number of case examples, in fact in one case it is to America, and the network that the Society had was that they would contact the Inspector in Leicester or Liverpool or London who would look up the father and remind -- the wording I think they used, is remind him of his responsibilities. There is one particular case where the -- I think the individual is in the army and the army agreed to hold back his pay. So, yes, there was networking where other NSPCC Inspectors to attempt to ensure that fathers who had absconded, their responsibilities would have been held to account, so to speak.

37 Q. Is it possible to say what sort of proportion of cases might attract prosecution of either or both parent, in the very crudest sense? I think at page 10 of your...(INTERJECTION)?
A. Yes, sorry for the delay. In 1956/57 annual report it identifies that 1.3% of the cases referred were the subject of proceedings.

38 Q. Now those proceedings could be of either variety, is that right, of either committal or prosecution?
A. Yes, I suppose what we can't be sure of is that all children who were committed to industrial schools were committed through the courts, but it would appear strongly through the annual reports that -- certainly the directory clearly identifies that they have to have been committed through the courts. So, yes, proceedings could have been prosecution of the parents.
or committal to an industrial school. But the statistics for -- we looked as seven regions between pre-1956, dating back to the 1930's. For example, in Cork only 2.56% of the referrals were subject to proceedings; in Dublin 1.95% in Clonmel 1.85% the highest was Kerry, 4.6% So that those are the sort of percentages that are being presented all the time. The Maynooth research specifically was looking at committals and only came up with 20% but that isn't supported by the rest of the annual reports that are all indicating very low levels of prosecution.

39 Q. So prosecution would be essentially of the parents and inviting some criminal finding against them?
A. Or proceedings, I suppose -- yes, and also committal of children to the industrial schools.

40 Q. On the question of committal, in the 1940's the Society seems to have been at pains to indicate whether this was the first resort or the last resort, could you tell us a bit about that, please?
A. Yes, there is some very strong quotations, I think, we mention them in our statement and...(INTERJECTION).

41 Q. If you want to just refer to that.
A. Okay.

42 Q. It seems to have been a very live issue in the 1940's, is there any historical indication as to why it should be so specifically mentioned in the 1940's?
A. Again, it is very difficult to know, but I think one of the things that emerge from the annual reports, and I have to say I am simply giving my opinion on this,
there is evidence in one of the annual reports in the 1940's that there was concern about the levels of neglect and I think in the context it was happening in the world and in Ireland there was many economic factors perhaps influencing how children were cared for. But there would also seem to have been a need to state clearly by the Society that they were not just about committing children to industrial schools. I am speculating but that would appear to be the case.

Q. In 1947, in one of the statements anyway?
A. There is one in the 1948/49. If I could take a minute, I could find it here.

Q. Yes, that's fine.
A. Thank you. It is saying:

"During the year we have had to arrange for the placing of a large number of children in industrial schools chiefly because their parents were unable to maintain them but in some cases because their home conditions were so undesirable as to make it necessary to remove them there is no doubt that in these schools they received care and attention and a sound education and are brought up to be useful members of the community.

Nevertheless, however, grateful we may be for the devoted work of the Orders which conduct these schools, it must be recognised that the children are to a large extent deprived of home influences and it would be much better if we could avoid sending them to such institutions.

If their own homes are impossible, good foster homes would give them a healthier and happier introduction to life. It is, however, seldom possible to find such homes in the case presented to the Society.

There is another aspect of the careers.
of such children which calls for consideration, besides those committed
through no fault of their own or even of their parent, there are others who
find their way to industrial schools through the causes of grounds of some
form of juvenile delinquency, even if it is only such unruliness as failure
to attend the ordinary primary schools."

I don't know if you want me to continue with that?

No, just pause there. It is clear that there is some social feeling that there was a taint on children who had to be committed because of difficulties at home and that, in some sense, they were been tarred with juvenile delinquency or delinquency of some sort?

That's correct. The paragraph goes on to talk about that and effectively, in my own words, it would indicate that they are worried about the label that people would carry and how that would impact on their later lives and that is clearly coming out of the rest of that paragraph. I think the other interesting thing about this, if you could bear with me.

Yes, please do?

They say here, this is in 1948/49:

"The whole question of the treatment of deprived children in this country calls for investigation, such as it has received recently in England".

That's probably the Curtis Report or something?

I am afraid I don't know. I think in 1948 they were clearly saying that there was a need to review it and
they have identified. I think they also have there:
   "Other aspects also the industrial
   school child which wouldn't pay
   attention."

Then they talk about the labelling component of that.

48 Q. That's right, aftercare?
A. Yes.

49 Q. Also one of the other difficulties that the Society
points out is that one of the difficulties, I suppose
essentially for the boys, is that the trade unions
appeared to have a hold on entry to trades, that's in
fact, what's mentioned in the report?
A. Yes, that's correct, and I think the difficulty for any
of the children who were committed to industrial
schools to even enter a trade, I think that's clear
coming from that.

50 Q. As I say, there is also criticism of aftercare and the
affording of secondary education, is that correct, to
children?
A. That's correct.

51 Q. Can I just pause there and just bring you on. You
noted also that, I think, in 1953 and 1954, against the
background of a criticism that maybe the Society were
too keen on committing children, the Society again
addressed its vision. I wonder if you would just
indicate to us what it was that the Society said in
this, refers to what is called:

   "A mistaken impression in the minds of
   many people who regard the committal of
   children to industrial schools as a
   sovereign remedy for unhappiness or

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unsuitable conditions in the home."

A. That's correct. The 1953/54 report actually refers also to the constitution, if my memory serves me right. Q. It does, that the family is the natural and primary educator of the children? A. That's correct. I think it says: "Home or no home", is the heading on the paragraph. It goes on to read:

"Perhaps the greatest of the rights of the child which we are continually fighting to maintain is the right to a secure and happy home with its family. In this we follow the provision of the constitution of the country which may be quoted here."

And it quotes the constitution. It goes on to say:

It is a clear working rule in all our cases where the question of committal arises that every effort must be made to find some other solution. A committal is only sought or advised where there is no other way out."

53 Q. Can I just pause to ask you this: Could an Inspector off his own bat, or her own bat, cause the committal of a child?

A. No, the directory identifies the process which the Inspector had to follow. Their central office needed to be informed of any intention to seek a committal of a child. Evidence would have to have been, obviously, presented to the courts and the courts would make the final decision. I think the -- alongside that, the
Inspector could not contact central office unless he had talked to the honorary secretary of the branch, so the process, he or she would have reported to the honorary secretary of their branch and would have informed the central office. So there is provision for an emergency but I think where you had the majority of committals, unless there was an exceptional situation, would have had to have been processed through central office.

Q. Can I ask you does that mean that the central office had to consent or did they just have to be informed of the attention to inspect?

A. I think it is consent. I would have to just check the wording exactly but my memory is it is consent.

Q. What do you think that says about the work of the Society and its view as to where committal fell in the range of child care options, to use a modern phase?

A. My impression read the annual report, even from the very founding of the organisation, where you have back to 1908 statements like "we are not there to punish parents, we are there to help take the responsibility. Our primary focus is the protection and the prevention of cruelty". I mean those statements are clearly made right the way through the annual reports. I feel that based on that information it would be that committal was a last resort for Inspector. Sorry, not a last resort, it would be one of the last resorts. I think one of the annual reports identifies that there were worse, in parent's eyes certainly and in the eyes' of
the Inspectors, there was worse options.

56 Q. Like?

A. Well the work houses are talked about in the 30's and some indication that parents were asking the Inspector to get their children into industrial schools because otherwise they would end up in work houses. There is also the issue of infant mortality.

57 Q. I will come back to that in a second.

A. Okay.

58 Q. While we are on the subject of committal -- sorry, can I just say I think that phrase in the 1953/54 report was, "a poor home they say is better than no home".

"It is a clear working rule in all cases where a question of committal arises that every effort must be made to find some other solution and committal is only sought or advised where there is no other way out."

I think that is it?

A. That's right, yes.

59 Q. I think, as part of the historical aspect, 250 case files were examined by some research people, this is the Maynooth NUI research. I think they were able to elicit, although this may not be representative, 20% resulted in the committal of children?

A. That is correct. From a sample of 250 cases I think.

60 Q. Firstly, we indicate that that could not be a representative sample because we know from the rest of the figures that it is somewhere between one and three or four percent result in proceedings?
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A. That's correct. Just to put this piece of research in context, it was conducted as part of a Ph.D project and the researcher was seeking out cases where it was likely that there would have been committals. I think she has identified that in her research, that there was a selective sample, because she was interested in looking at the reasons behind committal.

Q. So it is unlikely they are going to be looking at what I am going to call minor cases or the cases that only had a passing reference?

A. That's correct. I think she points that out in her -- it is actually the introduction to her Ph.D as opposed to the Ph.D. So it would certainly be a skewed sample I think.

Q. What it does do is it appears to look at 50 committal cases in which there was some material from the Society. That's the way I would look at it.

A. (WITNESS NODS)

Q. Okay. It would appear that in 39 of those 50 cases the parents initiated contact with the ISPCC?

A. That's correct.

Q. That was with a view to having their children committed?

A. That's correct.

Q. Now that may not be representative and these therefore may be the worst cases. Is it possible to try and work out how many parents, surviving parents, consented to the Orders or didn't consent? Have we any insight into that?
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Unfortunately not from the records we have we don't. I mean I suppose one indication is that Maynooth report and there are some case examples through the research we did indicating mothers of illegitimate children -- they were termed illegitimate children -- seeking a committal. But we don't have anyway of really identify the percentages per se.

Q. I may be wrong and I may just have extracted some other figure, but I have somehow in my mind that possibly two-thirds of parents, and that may include mothers of illegitimate children, may have consented, does that ring a bell with you?

A. Well I think that may be the Maynooth report, unless I have forgotten something in the material. I know that in our statement that we did identify that a significant percentage of the general referrals, the referrals from the public were from parents. But I don't think we actually identified a specific percentage. I can look at the material later on and just review that.

Q. That's all right. Just coming back to the issue of committal and before a child was committed to an industrial school. Could we first look at did the Inspector have any contact with the industrial school to find out was there a place available, suitability and all that sort of stuff?

Q. THE CHAIRPERSON: Could I just clarify something, Mr. Gageby.

Mr. Gilligan, when you say that a significant
percentage does that mean that some parent -- that the
initial contact might be "we're in trouble, we are in
difficulty", or whatever it is to the Inspector and the
Inspector comes along? Is that what you mean by saying
that? When you said a significant percentage of
referrals, that's the initial contact, "we would like
some help from the Society"?

A. That's correct, Judge. The initial contact would be --
the annual reports define referrals or the initial
contact in that category and the biggest single
category was the general public and within that were
the parents themselves. So, yes, that would be the
initial contact.

THE CHAIRPERSON: Thank you very much.

MR. GAGEBY: I think just to assist, in
the research -- which
obviously is more skewed towards committal as a fair
average -- I think it was noted at page 7 of that
research that in 39 of these cases, and this is the
80% "Parents initiated contact with the
ISPCC for the express purpose of having
their children committed."

"Parents initiated contact with the
ISPCC for the express purpose of having
their children committed."

THE CHAIRPERSON: 39 of the 50 cases?

MR. GAGEBY: 39 of the 50 cases. 80%

yes.

MR. LOVE: In using the term "parents"
that obscures that it might
often be a parent, the other parent having died or gone somewhere else.

A. That report also identifies that 18 of those cases involved what were termed illegitimate children, where you had one parent. The issue of the one parent with an illegitimate child was a big issue because a parent couldn't work if they had a child and the families often didn't want to or had issues around that parent returning home with a baby. That is, again, identified right the way through the annual reports as a big issue.

Q. **Mr. Gageby:** We will come back to that. Just looking around the process of committal, I think it does appear that Inspector, if he had received the sanction to proceed with committal, would make the application himself to the courts for committal; isn't that right?

A. That's correct. The material would also suggest that they would assess, identify a location.

Q. **72 A school?**

A. A school, yes. There are some indications that they sought to identify schools near the homes of the families. But I think availability was probably the key factor in their decision to place a child.

Q. **73 I mean looking at that, because this is something that has come up with the Commission, for instance some children from Dublin might wonder why they ended up in West Connaught.**

A. Uh-huh.
Q. I mean one assumption, and it is probably a reasonable one, is that there simply wasn't accommodation in Dublin if Dublin was the more desirable place?

A. Yes, that would appear to be from the cases that we have. From the case examples that we have it would appear that there were attempts to keep the children close. But I think availability of placements would appear to be the main driving force behind the decision.

Q. However, there may have been one circumstance in which that wouldn't have been perhaps be so much the fore. In the case of an illegitimate child, where the mother was effectively surrendering all relationship with the child, and perhaps the mother's family also, perhaps similar considerations didn't apply. I am just throwing it out to see if that would appear to be one factor that might have operated. Is there any indication of that?

A. I am afraid I don't. There is nothing from the case files or the annual reports that would indicate that.

Q. It is just that the Commission has gone through a number of private hearings and it is sometimes difficult to divine why children, particularly from Dublin, would have gone somewhere else. I can just think of examples where neither or both might apply. Anyway. What sort of knowledge did the inspectors have of the industrial schools is it possible to glean from the papers, or of particular industrial schools?

A. It would appear from-- we have not come across any
information that would indicate that Inspectors were visiting industrial schools or had any role in that regard. There is communication regarding individual children, there is evidence of communication from industrial schools where there is brief reports given of the progress of children. So certainly based on what we have done for this statement it would appear that the relationship would be, one, to find out if there was a place.

77 Q Yes. That would be with a view to an Inspector saying I am hoping to move an application next week, can you accommodate a child of two or a boy of two or a girl of three, or whatever?

A. That's correct. Secondly, where a residential facility may contact the Inspector and say we have a place, so that you are aware of that. Thirdly, where there would be some communication, and I am not sure why, indicating the progress of a particular child. Fourthly, where there may have been a move to have a child returned to their parents.

78 Q That's a situation where the parents might apply to the Minister for the release of their child?

A. That's correct.

79 Q That seems to have occasionally generated correspondence, is that right?

A. Yes. I mean there is certainly -- well, there is a couple of files where, I think one or two files, where there is Inspectors being asked to review the family with a view to a child being returned. There is
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1 certainly a comment in one of the annual reports in the 1950's which would suggest that the Department of Education would have asked the Inspectors of their view in regards to children returning to families. But that same comment in the annual report says that their views were being ignored. It appears that there was an issue regarding the Department wanting to return children to a family and the Inspector was reluctant.

9 There is also another case file where the child does not want to return home and the parents are seeking their return and the residential institution is writing to the Inspector saying -- you know, looking for the Inspector's support to try and protect the child from having to return home. But that would be the nature of the communication it would appear from the material we have reviewed.

16 Q We have heard some evidence that in one of the western industrial schools the Inspector Mr. Egan occasionally did call to see his charges. There is nothing to indicate that in the extant papers?

A No, I am afraid there isn't.

Q Just going back to the court process. These were all, of course, conducted in front of justices of the District Court, isn't that right? I think the process involved usually of put the County Council on notice of the application since they would have some financial responsibility. I think usually County Council either wrote in a letter saying they have no objection, or
they sent somebody along to say they have no objection, or something like that?

A. I think that would appear to be the case, yes.

Q. Is it possible to divine what sort of information was laid before the Justice to cause them to make an Order sending a child away?

A. In reviewing the material we didn't come across much in terms of what might have been presented as evidence. But the directory seems to identify very clearly what sort of evidence is needed. They talk about the need for -- one of the paragraphs in the directory talks about hints on evidence, generally things like avoiding general statements, completeness of evidence. It talks about having to have medical reports and the directory identifies the type of medical report that a doctor should fill out vis-à-vis neglect, assault, disease, medical aid. It talks about, you know, the forms of reports that the Inspector is expected to develop. The categories like; what was done? Who did it to whom? Those sort of categorisations of gathering material. It would appear that they are driven by adherence to the 1908 Children's Act and also adherence -- and I think it mentions in the directory that Inspectors should remember that they may have to present that to the courts. But we don't have any specific files that talk about that actual process.

Q. There is no stenographic note or anything like that?

A. No.

Q. Presumably this was done orally, on whatever day was
A. Certainly there is clear statements in the directory and in some of the case files that the Inspector did give oral evidence. But there would appear also to have been reports presented the courts. We don't have any of those.

Q. Obviously, there were other cases which didn't necessarily come that route, where there might have been Garda evidence in some of the more extreme cases?

A. Yeah, there is some distinction in the annual reports, not in all of them where the Inspector is asked to give evidence because the prosecution is being taken by somebody else. So they are a witness to a Garda perhaps taking a court case.

Q. Presumably, part of the decision of the District Justice might have been influenced by the extent to which the parent or parents were heard, or were heard to object?

A. Yes, it would appear that the parents were obliged to attend court in almost all cases, the parent or parents. Certainly some of the case files would indicate that the Justice asked the parents to explain their behaviour. It is very hard to tell what weight was give to be what evidence from our case files.

Q. Presumably, looking at it from this remove, the good name of the Society was probably part of the reasons which would cause a District Justice to commit, in the sense that if he took the view that the Society was at least scrupulous and wasn't likely to try and remove
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children unwontedly or against their own interests?

A. I think -- well I can't answer that question directly but I think that the NSPCC/ISPCC were seen to have expertise in the area of child protection. They were the only child protective organisation -- and that's their own words -- in the country, up until the Health Boards were founded. I think that alongside that it is reasonable to suggest that they would have gathered pretty clear evidence. I think the assistance within the directory of gathering clear evidence -- I mean it is very clearly stated that -- let me just go back a bit, if you could bear with me for a second. There is a section saying facts and their meaning, nothing is to be assumed by an Inspector but that the persons are innocent. Complaints are not charges. How you conduct inquiries. The nature of a complaint. What the Inspector found. The reason for concern. The age or probable age of the person. Their means, as I discussed earlier. What they would be earning if they were working. So there is clear categories. It is clear in the directory that they need to be specific in the information. I would assume that that's because it was important that they would have had that specific evidence if, and I think it is stated, if this got as far as the courts.

I suppose I'm at pains to point out that I don't believe this was the Inspector simply saying I think these children need to be committed. I think there was
a process, there was evidence presented. But, yes, I would agree that the NSPCC/ISPCC would have been viewed as having an authority in this area.

Q And presumably if the parents were consenting that would also be quite an important factor?

A Yes.

Q In fact I notice on page 30 of the research which you conducted, which says:

"On the grounds of committal on the cases examined by the researchers..."

And that is of course the small amount and it is not representative.

"forty-one..."

That's of the 80 or so.

"41, or 66% of children committed at industrial schools were committed at the request of their parents."

A Yes, that is correct.

Q Now that's only of a very small amount, it may not be representative?

A I think there is also some information in the annual reports of at one stage the NSPCC are identifying in the 30's the difficulty of getting consent from a parent who has absconded or is in prison. They were arguing that the legislation should be reviewed in that context. For me that would be indicating that consent was a route that was taken.
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91 Q. That may partially have been solved, partially, under the 1941 Act which gave an amendment which I think made it easier to commit children found destitute but at home and with a parent or parents?

92 A. Well, obviously I am not... (INTERJECTION)

93 Q. I am not trying to draw you into anything.

A. The annual reports also indicate at some later stage that parts of the 1941 Act were found to be unconstitutional and that seemed to present a difficulty for the NSPCC.

94 Q. As a proportion, therefore, of children who were committed to industrial schools under the Children's Act, is it right to say that it would appear that the ISPCC was probably one of the main, as a percentage wise, was probably one of the main movers in that?

A. I don't know the answers to that question. We don't have any statistics available to us with the numbers committed to industrial schools.

95 Q. I appreciate that.

A. But I think if we were the only child protection -- child protective organisation then I think it is reasonable to suspect that we certainly would have committed a significant number to the industrial schools. But I really have no idea about the overall percentage.

Q. Because it is a bit unlikely that the Gardaí would take that step per sé, I mean they might have been the vehicle by which a case came to the attention of the courts, but.
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A. Well the juvenile delinquency side -- I am sorry, I am using that term because that's the term they used in the directory. But I think there was the other way, which was if a child was viewed to have committed a crime. In fact I think the directory indicates that the Inspector has no role to play in the court proceedings with regard to juvenile delinquency. There is another reference to juvenile delinquency in one of the annual reports that identifies that the causes are being ignored, and it identifies lack of parental involvement and poverty or social problems. But I think it would appear that the Society didn't have a role to play in -- I think those children were most likely prosecuted through the Criminal Justice system.

Q. So effectively if delinquency is put outside and more overt cruelty, I mean the Society is more likely to have been moving for a committal where there wasn't another solution and it is really sort of destitution and difficulties at home?

A. Yes, and I think that is supported by the percentages. The percentages are extremely low of the overall referral to the Society.

Q. Would it be helpful to maybe look at any particular year in which you have an annual report because it usually tabulates how many places there are, prosecutions. Just take any year that you think is helpful, maybe between the 30's and the 60's just to give us a flavour of the class of action that was taken?
A. I think I probably have given these already, but I have
the percentages, the overall percentages from 1930 to
1956. Sorry, after 1956/57 they dropped in the annual
reports reporting on proceedings and I suspect, because
in that year it was 1.3% of all contacts, of the
referrals contacts only 1.3% were subject to
proceedings.

Q. I am looking at something like -- if you could look at
page 24 is that of assistance, of your statement? Page
24 of your statement, which is a very helpful table and
it is looking at '56, '62 and '66 and reasons for
referral. "Case law" is, presumably, just the generic,
there is 1425. Ill treatment or assault, 145.
Abandoned, five. Exposure causing to beg, one. Beyond
treatment, 29. Moral danger, 12. Paid or advice sought
735. Which is 2300 referrals involving about 7500
children, isn't that right?

A. That's correct. That's 1956, from the 1956 annual
report.

Q. I think what you are saying is that you believe that
about 1.3% of referrals would result in court
proceedings?

A. That statistic relates to a year just before, I think
1954 perhaps. But, yes, on average, if you take the
averages even they are very low. Yes, 1.6 at that
stage.

Q. All right. Right or wrong, there are some extant
statistics, between 1.3 and about 4% depending. But
that would include both the prosecution of parents for
neglect, or a parent or whatever, and also a committal; isn't that right?
A. That is correct.
Q. Okay. One way of looking at that might, and suppose we shouldn't argue about statistics, but that in 1956 there was a very substantial number of children in industrial schools, and I am going to get guess at around 5,000, 6,000 or something like that and it could well be out. Can I just ask you, committals up to the age of 16 seem to have been normative for quite a period of time, does the Society have any knowledge of this?
A. Sorry, could you just repeat that?
Q. Yes. Committals...(INTERJECTION)
THE CHAIRPERSON: Appear to be what?
MR. GAGEBY: Normative, normal.
A. Up to the age of 16?
Q. Yes.
THE CHAIRPERSON: Normal or normative? I am not sure how normative fits into this.
MR. GAGEBY: I will say normal then.
A. So it was normal to commit someone up to 16 as it was for...(INTERJECTION).
Q. Yes.
THE CHAIRPERSON: Sorry, the usual thing.
When somebody was committed it would seem to be that the usual period of detention was up to age 16.
A. Yes.

Q. MR. GAGEBY: Except, however, I think there are two things noted.

THE CHAIRPERSON: But that's the question that you are asking about?

MR. GAGEBY: Yes, and I think the answer is given.

A. That's correct. It would appear -- there are examples of case, as I said earlier, where there was movement or consideration of releasing children back into the care of their parents. There is also some case examples of Inspectors believing that it shouldn't be until the age of 16. But I think the majority of children were placed until the age of 16.

Q. MR. GAGEBY: There also seems to have been a distinction in 1954, because there seems to have been some short term admissions to industrial schools at the behest of the Archbishop of Dublin where the mothers were receiving medical treatment for tuberculosis, in which case there was need for short-term things. Is that reflected in any of the material which you are au fait with?

A. Yes, one of the issues that, to return to the campaigning or the raising of policy, one of the issues that the Society raised was their concern about children whose parents were sick being placed in industrial schools.

Q. Just by reason of the fact that there was sickness in the family?

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That's correct. They raised it, I think, in two annual reports. I am not sure what years, if you would just bear with me for one second.

I think it may be '54 and possibly afterwards.

Well in 1954 the reference to that is in the annual report, it refers to the Archbishop of Dublin has established a facility for mothers and for the children of mothers who are sick.

Yes.

But I think it is actually referenced by -- sorry, I have a memory that it was referenced earlier in an NSPCC report as an issue. But certainly in the 50's there was an acknowledgment that, and I think the Archbishop refers to establishing a home in Merrion Road or Merrion Square for that.

I want to move on, if I may, to a different area, which is this: What were the alternatives if the Society were looking at a problem and a problem in a family what was the alternative if the problem couldn't be solved within the family by one means or the another what was the alternative to committal to an industrial school that was available within the Society that existed from the 30's to the 60's?

Again, I think the case reports and the annual reports seem to indicate that there was very few alternatives. I think unless the Inspector along with the other community supports could organise some practical support for the family, or unless the parents were able to, you know, make change in the way that they were
living there was very little. I think the foster placement appeared to be primarily, and I am not as au fait on this as I perhaps should be, but it appeared to be primarily for very young infants, babies, as opposed to fostering for older children. Relatives was the other obvious option. There is some discussion of the options of having a relative take the care of children. But there didn't appear be huge other alternatives.

Q. I mean one of the things noted actually earlier is that -- I mean, obviously, one alternative, that's to say if you have a family with difficulties, is if there is an extended family who could help?

A. Yes.

Q. But that then raised the economic spectre of how that other person in loco parentis was to be assisted at a time when there was no money around. I presume there is some evidence of attempts to try and solve problems that way?

A. Yes, using extended family, that's correct. I think though you have identified quite correctly the issues of the economic climate and the poverty. Many of the families were living in very poor conditions, as were their extended families so I think the chances of being able to resolve the problems by using extended family were limited. There are some examples in the case files of somebody in the extended family taking the care of the children.

Q. Fosterage therefore in a more formal sense, fosterage existed essentially coming from the Poor Law system.

52
and we actually heard a bit about that yesterday, I think it was mainly in terms of children who were illegitimate, where maybe that in a sense the mother gave up the child and the infant could be sent to a nurse to be nursed as an infant and subsequently fostered out to various families at differing rates of pay. But was there actually such a system for children who were coming in who were legitimate, to use the expression, where the parents were still around? Did that system exist then?

A. It would appear not from the material that I have read. I think, again, there is a reference to the need for a fostering option. The NSPCC/ISPCC identify the need to develop fostering. But there doesn't appear to be any evidence on the material that there was a formal system.

Q. Adoption didn't come in until 1952 and that could only have a limited application, isn't that right, to illegitimate children or orphaned children?

A. Yes.

Q. So there was a difficulty, legitimate children with surviving parents, albeit parents who weren't exercising their rights, were less likely to be placed in a natural home as opposed to an industrial institution?

A. That is correct. Just on the alternatives, there is some evidence from the 1930's material of parents requesting their children to be placed in residential institutions because of fear that they will end up in
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work houses. I am not sure when the work houses
discontinued, but certainly there is some evidence in
the early 30's of that. I think that may have been an
alternative, if you could consider that. But certainly
that was an issue for some parents.

116 Q  MR. LOVE: Can I ask you to consider
another factor. I was just
looking at the table on page 24 again, number of cases
was 1425 and the number of children 4669, which, if you
allow for the fact that a large number of those would
have been illegitimate and, therefore, not be
(inaudible) family, we are talking about three or four
children from a family being taken into care at once.
That would mean fostering would be a difficult option
to say the least.

A. Yes, I think that is a reality, that many of the cases
talk about number of children. I don't recall many
cases, if any, just being one child. I think that was
an issue. I think in some cases you will find that one
or two children are taken into -- are found places in
school, because it wasn't easy to find places for all
the children in schools.

117 Q  MR. LOVE: Besides the family it
self-limited the options
available?

A. Yes. Yes. And resulted often in the breakup of the
family for that reason.

118 Q  MR. GAGEBY: Because there was, I
suspect particularly when

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children were older than ten, it was quite difficult to find an institution per se that would accommodate both sexes.

A. Yes.

Q. Could I just ask you to deal with a couple of other things. There was a system of fosterage, and coming back to, therefore, the opportunities for care outside of the industrial school system. There was a system of fosterage which existed and which historically came from the Poor Law, this is boarding out and all that sort of stuff, I think some of the research indicates that particularly -- can I ask you to turn your mind to the 1920's and 30's with some astonishing statistics about the mortality rate of illegitimate children, which I think is noted to an extent that would horrify everybody. I think the mortality rate for illegitimate children was noted in the 1920's to be approximately about 80 times that of legitimate children?

A. Well I suppose the most striking reference for me was in the 31/32 annual report, which identifies the mortality rate one in four, compared to one in sixteen for non-illegitimate children in their categorisation. If we are to break it down to if you look at the mortality rate for children not from diseases, which would suggest that they categorised them as diseases and other causes, but they are saying that the mortality rate was 24 per thousand of illegitimate children compared to 1.3 per thousand of legitimate children. And that's in the first 14 days. Sorry,
that's not from diseases, they have also identified
that the first 14 days appear to have been the key
factor in determining if a child died or not and they
identified separation from the mother as an issue. But
the narrative in that annual report, I am afraid I
don't fully understand what they are trying to say.
But there appears to be some suggestion of people who
were a danger to babies or who are trading in babies,
but certainly that we were afraid that the Society was
failing to care for the mothers and illegitimate
babies. That comes up again in later reports. I think
the society are arguing that they need better supports
for mothers and illegitimate babies. But certainly the
mortality rate seems to be a huge factor in that year.

Q. As I understand what the Society was picking up was
that firstly there appears on any objective basis to be
an astonishingly different mortality rate for
illegitimate children on any basis?
A. That's correct. I think it goes on to talk about the
fact that some people identify the cause of that as
being the guilt and shame that the mothers feel. But
it then compares the mortality rate with the mortality
rate in Wales, Scotland and England and identifies that
even in comparison to those that Ireland is very high.
I think it says it identified it as a serious issue.

Q. It also notes that, for instance, 66 infants were found
dead in 1930.
A. That's right. Abandoned I think. Some of which were
abandoned.
Q. 66 dead and I think a small number abandoned. That's against the backdrop, obviously, of the difficulty that there was great social difficulties for women with illegitimate children and simply with making an economic provision for their children?

A. Again, the material in regards to this I think is very stark. I think the first issue that appears to arise is the issue of the sort of shame that appeared to be connected with illegitimacy. The difficulty for those mothers to in some cases return to their own families, with the baby in particular. There are some case examples of families saying we need to deal with the baby, the baby needs to be taken somewhere, the baby cannot return. I am not sure if that was for economic factor or for social factors.

The additional difficulty, obviously, was that with a child the mother was not in a position to work and that's identified. In the 1939/40 annual report the NSPCC are identifying the need for nurseries and special schools, but nurseries in particular for -- it doesn't say for mothers of illegitimate children but I think it's identified as a support for them. So I think illegitimacy presented all sorts of difficulties in terms of both the economic and social problems that are created.

Q. Yes. A child perhaps is more likely as an illegitimate child to be fostered out. You mentioned the issue of baby farming or baby selling, which is noted in, I
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think, the 1930 report. I think the suggestion there
is that there was a woman in Dublin who was in the
business of basically buying babies and selling them
on.

A. I mean I just didn't understand the full reference to
what that was about. But I mean there are clear
references, yes, referred to in terms of dragons and
threats. But there are references.

Q. All right, perhaps that's just a bit outside the remit.

A. Yes.

Q. In relation to committals, in the sample that was
looked at by the researchers, which is the subject of
the NUI Maynooth material, there were 62 children
committed to industrial schools and six of those,
roughly 10% had been in the care of foster parents who
either proved unsuitable or who no longer wanted to
care for the children. So it seemed that some of the
children who were coming into the industrial school
system had been the subject of fosterage and it hadn't
worked for one reason or another; isn't that right?

A. That's right. And there are some case examples given
in the annual reports of situations where difficulties
would have arisen in the foster placements, often due
to the death of a parent and the surviving parent
believed they couldn't cope anymore and therefore they
requested that the child be fostered. In other cases
there is some reference to payments being made. It
appears that individuals had agreed to pay money to
foster parents to take children.
As a private arrangement?

Yeah. And that they had stopped paying and, therefore, the families had no choice it appears but to have requested that the foster child be taken off them.

Obviously, part of the foster system was also to ensure that the foster child wasn't treated as an economic animal, if you understand me, that he was treated properly.

There doesn't appear to be a lot of information around that in our material, but I understand from other material that that's the case.

Sorry, I used a phrase "economic animal", it means no disrespect to anyone.

Well we feel disrespected.

I am accustomed to being interrupted so I will just continue.

And we are accustomed to being abused by you again.

You have no business as describing anybody as an economic animal.

I think, Mr. Gilligan, you understand what I was saying?

Well we understand but we don't like it.

Mr. Gilligan, can we go back to one thing. One of
the worries with boarding out and fosterage was the danger that some of the children might be used a cheap labour inside or outside the house?

A. Again, I don't have any expertise or particular knowledge in this area but I do know that in some cases that I read there were examples of Inspectors being involved in situations where a foster child was being neglected or not being cared for appropriately by the foster parents.

Q. And at the same time receiving an amount of money from the State?

A. That appears to be the case, yes, that's correct.

Q. Just generally then. The ISPCC were effectively the forerunners of social workers, would that be a fair comment in retrospect?

A. Yes, the Society began to employ social workers I think in 1968. I hope I have the date correct. That would have been two, three years before the 1970's, when the Health Boards were established. Then they began to employ social workers in the 70's but also gave Inspectors opportunities to develop their skills and become social workers. Just one of the points I make in that regard which is perhaps important, given its connection to the UK body, and I think I referenced this earlier, in the 40's there was a statement saying there should be a review of the way we deal with children, deprived children as there has been in the UK. I think that it would be reasonable to speculate that the practice of the Inspectors in Ireland was
influenced by the developments in the UK. The UK
developed quicker in terms of its understanding and
ability to deal with child protection than we would
have in Ireland. I think perhaps explains why in 1968
we employed social workers when -- because I think we
were probably looking to the UK, even though we were
not the same organisation I think they would have drawn
off the expertise and knowledge within the UK.

Q. I think it would also explain why in the 40's you were
saying even a poor home was better than an institution?
A. Yes. I think we can't dismiss the fact that -- and I
think one of the issues obviously is I think there was
the influence of professional practice and awareness
developing across the water and that would have been
influencing on some level the understanding and the
practice of the Inspectors in Ireland.

Q. Ms. Ní Rafertaigh reminds me to ask you one thing. You
are speaking there of perhaps having a HQ in Britain
and the advances in childcare there might have helped
thinking over here. Does one get any sense from
looking back at the archives and the work of the ISPCC
that there was any great role for the Department of
Education or the people who were sitting around tables
saying how will we advance particular matters? Is
there any feeling like that, and I am talking about
30's to 60's and obviously things changed with Kennedy?
A. We didn't come across any formal materials that would
have indication working groups or communication policy.
But just to go back to the issue; I think annual
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reports in the way that they have outlined the sort of issues that were of concern to ISPCC/NSPCC it would appear that they were communicating with somebody about those issues. Because in two cases, for example, there is a reference made in the 40's to female escorts for children being brought to industrial schools. And it would appear from the reference the NSPCC are saying in an annual report that they had sought this and that it had now been agreed. The second reference they talk about that they are very happy to see that the courts are going to treat children differently and deal with them in private so that there wouldn't be an atmosphere of -- a criminal atmosphere is what they describe it as. It would appear that they may have had some involvement in seeking that change in the courts. So I would suspect that it may be that the annual reports were their way of doing that. But there would appear to have been some discussion around the issues but we don't have any information. Unfortunately, we weren't able to archive the administrative material that we have, we just simply hadn't the resources at the time. We did archive the case materials. So perhaps there is some material regarding that but we didn't come across any, even though the researchers did look for some information in that regard.

MR. GAGEBY: Thank you very much.

END OF EXAMINATION OF MR. GILLIGAN BY MR. GAGEBY

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THE CHAIRPERSON: Yes, Mr. McGrath.

MR. GILLIGAN WAS THEN EXAMINED, AS FOLLOWS, BY MR. McGRATH:

Q. MR. McGRATH: Mr. Gilligan, my name is David McGrath, Senior Counsel. I appear, again, as amicus curiae to the Commission but my background would be that I appeared for many of the complainants that have gone before to tell their stories, the people who were in the institutions. I would have represented many of them also elsewhere.

I just want to start really if I can at page 6 of the report, the findings from the ISPCC records. It is really just a preliminary point just to understand where many of the people that I would have dealt with, where they had come from On page 6 of the report is the mention of the word the "Cruelty Men", or "Cruelty Inspectors". The word "Cruelty Men", this morning the mention of it did provoke a reaction from many of the people here. I think you can take it that whilst the Inspectors have from your records on many occasions been involved in situations where we have solved problems without sending children to schools and that, that certainly the perception of most of the people I would deal with the word "Cruelty Man" is the person who is responsible for what happened to them.
thereafter. From their point of view the Inspectors are looked at with a rather jaundiced eye from that point of view.

It would appear from reading through the various reports and records and things that the Society itself was, in fact, aware of the fact that there was a perception out there that the Cruelty Man put children away or locked them up and it does appear, certainly in some of the annual reports, that this is a view and it is a view that you would like to try and do away with. Am I right in that?

A. Yes. I think that is fair to say. I think I have referenced it in a number of reports. In the 30's not so much perhaps. Certainly from the initiation of the Society there was clear indication of the need to not punish and support. I think the directory says that. But, yes, the annual reports appear to have been identifying what would have been a perception and trying to ensure that people change that perception. But that's right back to the 40's and 50's so I think they were working hard to ensure that that wasn't the case.

Q. With regard to the way that children came to the attention of the Society you have set out the various ways that this might happen. It would certainly appear that where a family approached itself it may approach because it just needed assistance or help in sorting out a problem not with a view to having the children
being taken into care. Or a family might approach on the basis that they did for some particular reason at that time want their children taken into care at that particular time. In those circumstances, as I understand it, looking at the various records that you have produced and the various instances and the various case histories, it would appear from those that there were successes where parents were persuaded out of it. There were also successes in terms of where the ISPCC was able to help families and ensure that whatever problem that was there was solved. But it would also appear that there were occasions when they did put people into care?

A. That’s correct.

136 Q. In those terms, as I understand the situation, there seems to be a suggestion that the Inspectors would put children, if possible, into a local school or some school that they were familiar with, that that seems to be the evidence that’s coming across from yourself and from--

A. Yes, I think that’s based on the statements in the annual reports that families should be kept together. I think there is also evidence in some of the case files, statements like "the father will be able to visit regularly". I think that’s where we are taking that from. But there is no clear policy on that anywhere, there is no statement of that policy.

137 Q. Can you help the Commission in this regard: When it is described that an Inspector is familiar with a school
1 how does that come about if he never visits that
2 particular school, because that seems to be the
3 situation?
4 A. Can I just clarify that I don't think I said that they
5 never visited the school. I am saying that we have not
6 come across any material that indicated that they
7 visited the school. But I don't know the answer to
8 that question. But I think familiar -- I don't know
9 what the term familiar might refer to but I think in
10 many cases it is simply saying they are aware of the
11 fact that it is there and they have had communication,
12 perhaps, with the residential manager. I don't know.
13 Q. When I was reading the papers last night there is some
14 mention somewhere in the papers of an Inspector in
15 Clonmel. Now, the obvious school for him to put any
16 boy in would have been Ferryhouse. We know, and it has
17 been accepted by the Rosminian's, that the regime in
18 Ferryhouse was a brutal regime. That's their own words
19 to describe it, never mind how I or how the people who
20 were students there or pupils there would describe it.
21 If that is so and an Inspector was familiar with the
22 school, how or why wouldn't he know what was happening
23 within the school?
24 A. Again, you can appreciate that I can only answer that
25 question based on the available information to me. I
26 think this comes back to perhaps one of the core issues
27 and that is, you know, what would an Inspector have
28 known or not known about a particular school and what
29 was going on in the school? The research we conducted

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for the preparation of this statement was conducted by two independent consultants. We did not come across any material that would have indicated that Inspectors knew about brutal regimes in any school. Based on the sort of annual reports and then issues being raised in annual reports it would be somewhat surprising if the... (INTERJECTION)

THE CHAIRPERSON: Just to be accurate, Mr. O'Reilly did not accept that the regime in Ferryhouse was brutal. He accepted that there was brutality there but he wouldn't agree that it was a brutal regime. I mean insofar as it is of any importance, it is a matter of accuracy, you are quoting the Rosminian's and you are not getting it right Mr. McGrath.

MR. McGRATH: If I may differ there, Chairman. It was put to him that the regime was brutal, he didn't accept it.

THE CHAIRPERSON: Correct.

MR. McGRATH: Then a quote was given to him from a former Provincial of the Rosminian's who said that the regime was brutal and he then said, yes, it was brutal. My memory is that he accepted it, but.

THE CHAIRPERSON: All right. He accepted that the punishment was brutal. Anyway, Fr. O'Reilly was asked a specific question, all I am telling you is that it is a matter of accuracy, I mean if you are going to quote him mny
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recollec\n
sion is that that's not correct, because he specifically said no, I accept -- he may be right or he may be wrong about it, I mean I'm not getting into that, Mr. McGrath. But just in fairness to what people said, and you may well be right that on some other occasion if we put the bits together the jigsaw points in another way. You may well be right, I am not even saying that.

Mr. McGrath: It all took place at the very end of his evidence.

The Chairperson: That's true. Why don't you say, look, he agreed that the regime was...(INTERJECTION)

Unknown Speaker: Broken.

Mr. McGrath: Sorry Chairman, I was distracted for a moment.

My recollection is that it was accepted by Fr. O'Reilly at the very end.

The Chairperson: All right. Sure carry on then.

Mr. McGrath: We may using semantics as to what the difference is.

The Chairperson: I'm just telling you that there was a specific question in which the specific word was used and he didn't accept it.

Mr. McGrath: No he didn't, at that point. But I am suggesting he suggested it afterwards.
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1 THE CHAIRPERSON: Listen, what can I do
2 Mr. McGrath?
3 139 Q MR. McGRATH: Sorry, Chairman, I am just
4 lost for a moment. Dealing
5 with the question of the Inspectors being familiar with
6 the schools; certainly it wasn't policy of the ISPCC to
7 follow up on children once they had been put into care;
8 is that the situation?
9 A. That's correct.
10 140 Q So as far as things are concerned as soon as the court
11 made its Order the child goes into the hand's of the
12 State and that was the end of the matter as far as the
13 Society was concerned?
14 UNKNOWN SPEAKER: And they were well paid for
15 it.
16 A. I think it is fair to say that the sense coming out
17 from the annual reports is that that was often seen as
18 a good solution, that the Inspector -- and I think I
19 read out the quote from the 1940's annual report, that
20 they believed that they were treated -- you know, that
21 a child would receive a good education and that they
22 would be well cared for, even though that same snippet
23 also indicated that they would have preferred to keep
24 the child in the family. So I can only go on those
25 sort of quotations.
26 141 Q But that comment would seem to be made in an overall
27 bland sort of way. It certainly isn't from the
28 experience of the Inspectors because they didn't have
29 any follow up.

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1 A. Well, I mean the -- that's correct. There is no
evidence within the material we saw that they would
have had any contact with the children in the schools
or any follow up, except in the situations that I
described earlier on, where there would be discussion
around the children being returned to their families.

7 142 Q. There was something, however, from quite a long time
back and you have referred to it already earlier today,
and that is that it certainly was something well known
to the Society when it was putting children into the
schools, that they were going to cause problems for the
children later because of the stigma that it attached?

13 A. That's correct. I am not absolutely certain of what
year that reference was, but that's correct.

14 143 Q. I think it is about 1942 or thereabouts.

16 A. Yes, it is the same reference I think I referred to
myself. The 1947/48 maybe.

18 144 Q. That was a cause of concern for the Society at that
particular time?

20 A. That's correct.

21 145 Q. Can I take it then that that was something that came
from their knowledge of people, the general public,
that this was a perception out there amongst the
general public that there was this stigma against
children who were in care, or in the industrial
schools?

27 A. Well I think that what that annual report does identify
is that children on leaving industrial schools and
attempting to gain employment there would have been a
stigma attached, that's correct.

Q. Dealing with a particular area that seemed to be of concern to the ISPCC, and it is something I have to admit has occurred to me on a number of occasions just in a kind of a general view matter, and that is the question as to whether or not there was an alternative method for dealing with the poverty situation other than putting children into care. If I can refer you first of all to page 13 and 14 of, again, the findings from the ISPCC records. It is under paragraph 3.1 on poverty. At the end of page 13 it says:

"The 1937/38 report pointed out that while the rate of home assistance for Dublin was adequate at 25 shillings rates prevailing elsewhere, specifically in Wicklow and Kildare at a maximum payment of 10 shillings per week were insufficient to ensure proper nutritional standards much less the provision of other basic needs."

A. Sorry to interrupt you, I am just not sure where you are reading from.

Q. Sorry. It is the Maynooth study, page 13 and 14, sorry.

A. Sorry.

Q. Page 13 is where I was starting.

A. Yes.

Q. I have just quoted a passage at the end of that page, going over to the next page it says:

"The 1947/48 report again pointed to the adequacy of social welfare payments."
It says:

"In previous reports we have drawn attention to the large number of cases where we have had to intervene to rescue children from the squalor and undernourishment directly due to poverty. Now authority seems to have worked out for Dublin what should be considered as the poverty line, though there have been a number of private sample inquiries conducted in past years.

In our report for 1945/46 we indicated that a collation of such figures were available show that for the ordinary family to provide proper nutrition and a sum of 8 shillings a head should be made available for food alone. Even with the increases recently made in some of the allowances the amount available leaves many families way below the poverty line at any calculation.

A peculiar feature of the unemployment assistance scale which has brought a number of families to us is the application of the maximum rate allowance, 38 shillings a week, even where there are more than five children. Even giving a man and wife and five children the allowance, plus seven and six children’s allowance, this is clearly. Allowing for a moderate rent of, say, five shillings per week the amount available per head is five shillings nine and a half pence is well below the minimum necessary to provide food alone.

In the case of the widow’s pension, the gap is still wider. It is true that in the worse cases the home assistance authority sometimes intervene with an allowance for rent but the total is still insufficient to provide proper nourishment for the children, to say nothing of clothing or bedding, much less or any less necessity necessary amenities. It is small wonder that some parents give up the unequal contest and apply for the committal of their children to industrial schools on the grounds of
inability to support them

When, as we have so often pointed out, they cost the public funds 15 shillings a head. If the parents were, say, given ten shillings a head they could keep their children who would not be deprived of home influences and the taxpayer would save five shillings a head."

Now it seems to be quite clear there that as far as the Society is concerned that shifting some of what was the capitation fee -- instead of paying a capitation fee, that if there had been an increase in the money being paid into families the problem with regard to having to put children into schools could have been solved and we are talking about going back as far as 1945, as far as that view is concerned?

A. Yes, I think there is a number of occasions in annual reports, including this one, where the Society have identified that low social services payment, poor housing and in this case the basic funding given to families was inadequate. That's correct, I think you are correct.

Q. And really the problem and the way to solve it was being pointed out by the Society at a very early stage, I mean this inquiry starts in 1940, in 1945 the Society was providing a solution?

A. Well in their opinion this was a key factor, yes.

Q. It was a key factor and there was a solution at hand if anybody within Government was prepared to grasp it?

A. Well, I mean I can only comment, yes, I can agree with

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1 your interpretation of what the annual report says.

2 152 Q In fact, I think in the annual report for the Dublin
3 and district branch 1948/49?
4 A. Yes.

5 153 Q Under the heading -- I think it is page 4 of the
6 report, under the heading of "Inadequacy of Social
7 Services Allowances", again the Society is pointing
8 out:

9 "In the last year's report attention
10 was drawn to the undernourishment of
11 large numbers of children owing to the
12 fact that the allowances provided under
13 the various social services
14 unemployment assistance, home
15 assistance, widow's pensions and the
16 like were insufficient to allow the
17 parent to keep their children properly
18 fed.

19 The cases dealt with during the year
20 disclosed quite a number of instances
21 in which there has been definite
22 undernourishment owing to the fact that
23 the parents or guardians of the
24 children have been dependant on such
25 allowances and have been simply unable
26 to support their children.

27 There is a wide difference between the
28 methods of administering home
29 assistance in various areas and a
30 number of particularly glaring cases of
31 inadequacy will be found below.

32 Last year we drew attention to two
33 aspects of the system the first was
34 that the family must often be broken up
35 if the children are to be properly fed
36 and clothed so that they may grow up
37 useful citizens, the second was that
38 the resultant cost of providing for
39 children removed from their parents on
40 the grounds of inability to maintain
41 them is much greater than the amount
42 which, if given in home assistance or
43 some other form of allowance, would
44 enable the family to be kept together. We went on to point out the danger of
45 that persistent undernourishment of
46 families dependent on various forms of
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1 public relief must result in the
2 creation of whole families of
3 unemployables."

4 Now, from the point of view of the Society, again it is
5 the same matter that has arisen earlier in the 1940's,
6 is still here and the problem is still not being
7 addressed and not getting any better and it means that
8 if that situation continues that children are still
9 going to be continued to be put into care in the 1950's
10 and 1960's, which is in fact what happened?
11 A. That's correct. I mean that quote continues to talk
12 about the position of the family in the constitution.
13 I think again that emphasises the fact that the Society
14 were reluctant to place children into residential
15 institutions.

Q. The Society seems to have taken its role as a Society
16 which should make recommendations serious and continue
17 to do that throughout the various years, through the
18 1950's and 1960's and right up to the 1970's, and, as I
19 understand it, by that stage you were still looking for
20 ways to improve the lot of children and it would appear
21 that in one of your papers from 1973, it is called "The
22 Position of the ISPCC and Childcare Work in Ireland",
23 it is contained in one of the additional ISPCC
24 discovery booklets. There doesn't seem to be a
25 reference on the one that I have.
26 A. I have a copy of that, it is a one-paged document, I
27 think.

Q. Yes. In that the -- sorry, Chairman, it is in
addional ISPCC discovery Phase III. I don't have a
number on the particular document.

THE CHAIRPERSON: Just tell us what it is?
It is a one-paged document,
but a one-paged what, a letter or a memo?

MR. MCGRATH: It seems to be a
memo. It says:

"Position of the ISPCC and Childcare
Work in Ireland 1973".

In fact, there should be another page to the document
but it doesn't seem to be there. It says:

"Foster care has much been neglected in Ireland, despite the traditions of the
past even when the sons of kings were fostered out, the concept of modern day
foster homes has not got off the ground. Very little, if any, attempt
has been made by statutory authorities
to distinguish between long term and
short term foster care or to build up a
panel of foster homes. Residential
care for children is virtually in the
hands of the religious orders.

Some institutions are now breaking into
smaller units and caring for both
sexes, but the general picture is still
large buildings run by nuns for girls
and priests and Brothers for boys.
Orders nominating children to the care
of the Health Board are seldom used and
the children are either committed
through a court order and the 1908
Children's Act or placed voluntarily in care.

In cases where removal from the family
home is necessary foster care is
therefore not a viable alternative to a
residential one. A residential care is
not satisfactory because of the size
and one's...READING TO THE WORDS... we
operate under an Act is which is
outdated an acronomistic. With a new
government there will probably be
Changes in the next year but we will still have a long way to go to catch up on the 1969 English Children's Act."

This is an area that you have touched on already with regard to foster care, in fact, it would appear from the papers that you have furnished and certainly at an early stage the ISPCC was interested in the idea of alternative care and were certainly of the view that the foster care that was in existence in Ireland was totally inadequate and you have outlined those circumstances.

There seemed to be two other problems that the Society saw at that time and that was (1) if children were taken down the committal route that they had to go in until they were 16, there are provisions in the 1908 Act in relation to the licensing out and that, but it seems in the vast majority of the cases, once the child was committed that was it, they were in and there was difficulty getting them back out until they were 16?

A. Yes.

Q. The mention is made of a temporary placement, were the ISPCC involved in temporary placements at all or would that have arisen in their work?

A. Is the question relating to the 1970's or relating to...(INTERJECTION).

Q. I am really going back through your records. Do you have any cases whereby temporary accommodation was
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sought or there were temporary arrangements made?

A. The material that we reviewed wouldn't have given us any indication of that. I mean, there are, I think, examples of situations where children may have been placed with extended family for short periods, there are some notes in the case files of children being placed in hospital for medical treatment on a short term.

Q. That would have arisen where they were taken into care at that stage because a doctor had certified that they had scabies or they had --

A. That's correct.

Q. -- serious problems and they needed medical treatment or they might have had a squint or something of that nature?

A. That's correct. But there is no evidence that I have come across indicating a system of temporary care, per se.

Q. Because there had to be situations where children had to be taken away from parents at a particular time, but surely the Inspector must have had the view that this only needed to be temporary but there is the situation that there was nowhere for those children to go for that temporary period?

A. Yes. I think there is examples, I am not absolutely certain of this, but I think that there are examples in case files of Inspectors making their point.

Q. Does that seem to be a glaring omission in the overall system for care?
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1 A Yes.
2 163 Q Is there anything in the documents that you have seen that would suggest that the ISPCC was making recommendations to the Government in that regard?
3 A Well not in the annual reports but I think you quite rightly pointed out there is a number of annual report would have identified various different issues and they did raise the issue of foster care. But they also raised the issue of -- which is not quite the question you are asking me, but I mean the issue of sick parents and their children being committed to industrial schools. I think they appeared to have been very active in that regard and I think that does touch on this issue for the need for temporary care, because often temporary care would be needed for situations where parents are sick or ill and the children needed to be looked after. So I think in that regard that touches on that but I don't have any evidence that there was any campaigning done on the broader issue.

164 Q Coming back to a matter that I mentioned a moment ago, the question of money and maybe transferring money from the system into families. Am I correct in understanding that from the various cases that have been studied, both by the people who were doing the Maynooth report and also from your own study of case files, that there were certainly occasions that it would appear that families were in very serious straits and the conditions they were living in were absolutely appalling, but that through a certain amount of

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charitable donation from the Society itself and a bit of arm twisting by the Society that the conditions for those families were improved dramatically?

A. Yes, there are examples.

Q. I am thinking of situations where an Inspector has gone to a home and he has described it as maybe there being only one bed, children sleeping on floors, there being no -- the place being essentially squalor and by the simple expedient of being able to get extra beds for children, being able to get clothes for children, having the children treated by a doctor, that instead of those children going into care that they were actually able to continue staying at home?

A. Yes, I think the statement identifies a number of cases and there have been a number of case examples presented in the annual report. I think yes is the answer to that.

Q. Doesn't it raise in your mind or shouldn't it raise in anyone's mind that surely if it could be done on a case by case basis like that by a charitable organisation that any effort on the part of the State to address the problem would have resulted in an awful lot less children being taken into full time care?

A. Yes.

Q. I was asking you there a moment ago in relation to the view taken by the Society in relation to changes being necessary within the system I would like to bring you to the Irish Golden Jubilee Commemoration document which is contain in folder No. 2 of the Phase III and
ISPCC documents.

A. What date is that document?

Q. It is about 1939 I think, it is 50 years. It is headed, "National Society for the Prevention of Cruelty to Children Irish Golden Jubilee Commemoration"?

A. I don't appear to have that reference. Is it not 1940/41 maybe?

Q. The front of the document shows 1889 to 1931 is what is on the figure on the front of it. It is in the same document as the address by His Majesty the King or a paper by His Majesty the King on the Society?

A. I just have a copy coming to me, thanks. (Same Handed to the Witness.)

Q. Go to, I think, it is page 5 in the document, it is headed "50 years"?

A. Yes.

Q. At the bottom of that page there is a paragraph that says:

"Although doubtless we have made much progress in the last 50 years as regards to welfare of children, we have far to go and there is still much scope for reform. Our descendants 50 years hence will no doubt wonder at our complacency over existing wrongs to children, just as we do to our predecessors when we consider the 2,261 children under 15 in prisons in the Dublin metropolitan district in 1888, a fact mentioned in our first Dublin branch report."

Isn't there some irony that we are sitting here in 2006 discussing the welfare of children between the time of that document, 1939 and 1980?
Mr. Paul Gilligan

1 A Yes.
2 172 Q Doesn't it suggest that our Society has very significantly failed?
3
4 **UNKNOWN SPEAKER:** Therefore you should
5
6 173 Q **MR. MCGRATH:** Doesn't it establish that our Society really failed
7 those children between the making of that statement and
8 the setting up of this Commission?
9
10 A Yes.
11 174 Q Now, further along in that particular booklet there is
12 the Honorary Secretary's annual report for the year
13 ending 31st December 1971.
14
15 A Sorry. Yes. Sorry for the delay.
16 **UNKNOWN SPEAKER:** Could Mr. McGrath make that
17
18 **MR. MCGRATH:** Sorry, Chairman, if this
19 caused a problem. This was in one of the folders that
20 was supplied to me yesterday, so I don't know where it came from
21 **THE CHAIRPERSON:** It was the 1971 annual report.
22
23 **MR. MCGRATH:** The honorary Secretary General's report.
24
25 A Sorry, I have a copy of that.
26 **THE CHAIRPERSON:** Don't be apologising, it doesn't matter, these
27 things happen. All right, Mr. McGrath, Mr. Gilligan has it.
28
29

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1 175 Q MR. McGRATH: Okay. In the second
2 paragraph, about halfway
3 down the sentence starts -- the heading on the page --
4 sorry. It is the Cork branch actually report for 1971,
5 sorry.
6 THE CHAIRPERSON: Wait now it is the Cork
7 branch.
8 MR. McGRATH: The Cork branch.
9 176 Q THE CHAIRPERSON: Does the Cork branch issue
10 an annual report?
11 A. No. My understanding is that from 1956 there were
12 annual reports. I think the confusion may be that the
13 front cover of this is badly photocopied.
14 THE CHAIRPERSON: Tell us what you are
15 looking at, Mr. McGrath.
16 177 Q MR. McGRATH: What I am looking at
17 ...(INTERJECTION)?
18 THE CHAIRPERSON: What does it say.
19 178 Q MR. McGRATH: At the start it says:
20 "Honorary Secretary's annual report for
21 the year ending December 31st, 1971."
22 I don't have a cover for that. But the page before it
23 appears to be a photocopy of a cover:
24 "Irish Society for Prevention of
25 Cruelty to Children, Cork branch for
26 the year 1971."
27
28 So that's the way it came for me.
29 SOLICITOR: Maybe if Mr. Gilligan can
30 just be given a copy of it

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1 he can read it.

2 THE CHAIRPERSON: But he doesn't have a copy of it. Do we have a copy of it, Mr. MacMahon?

3 MR. MacMAHON: Yes.

4 THE CHAIRPERSON: Would you lend Mr. Gilligan your copy of it and we can see what progress we can make. (Same Handed). Now, Mr. McGrath, you have it.

5 179 Q MR. McGRATH: Moving on from the page that says:

6 "Cork branch, Honorary Secretary's general report for the year ending December 31st, 1971."

7

8 Have you got that?

9 A. Yes.

10 180 Q About halfway down the second paragraph:

11 "Reference must again be made".

12 THE CHAIRPERSON: Are you looking at the same thing, Mr. Gilligan?

13 A. Yes, yes.

14 THE CHAIRPERSON: Now ask your question.

15 181 Q MR. McGRATH: It says as follows:

16 "Reference must again be made to the dismal failure of our legislators to apply themselves to the scrapping of this Children's Act enacted in 1908 when conditions were quite different to 1972. One must assume that it is regarded in legislative circles that no political advantage can be gained from the enactment of a more suitable and up to date act and as a personal observation I have to say that bills have been presented to the Oireachtas
of far less consequence and I would ask those charged with responsibility to have a long look at what the priorities are or should be.

In this connection, it would be remiss to omit from this report reference to the Kennedy Report, the findings of which were published in 1970 and no apparent effort is or has been made to implement this Commission's recommendations."

In this summary under the heading "Recommendations on Prevention", it says:

"The whole aim of the childcare system should be directed towards family breakdown and of problems consequent upon it."

So, in 1971, very much the same as 1939, something needs to be done and needs to be done quickly, isn't that the tenet that the Society is saying?

A. Well I think they are identifying the difficulty of the fact that the legislation -- the primary legislation with regards to child protection, the 1908 Act, hadn't been changed.

Q. And again if you can move further on in that booklet to the Honorary Secretary annual report for the year ending 31st December 1973, in similar format, it is in somewhat further along in the book. But this is not paginated. It is shortly ahead of a blue tab in my book.

A. Is this the Dublin branch?

Q. No, the Cork branch again. It is a 1973 report. It is just a little bit further on past the report that we
just discussed.

A. The next report in the book that I have here is Dublin branch 1973.

THE CHAIRPERSON: Why don't you ask the question, Mr. McGrath, and then we will see whether Mr. Gilligan needs the document.

Q. MR. MCGRATH: It again indicates in the third paragraph, starting on the first page:

"The Society at national and local levels continues to press for the updating of the 1908 Children's Act in accordance with the recommendations of the Kennedy Report and it is a source of satisfaction to us that the comparatively recent recognition of the State's responsibility to deserted wives and families and other changes contemplated to assist families in need are being brought about by the submissions and representations made by the ISPCC with the support of kindred bodies".

Now, that would seem to suggest that the types of ways in which the Society wanted the problem solved back in the 1930's or 1940's are now finally in the 1970's being implemented by giving more assistance to the actual families themselves rather than to the institutions?

A. I mean, I can only agree with what's in the annual reports. Yes, there would appear to have been some movement in terms of payments, but I think the other point is that the 1908 Act still hadn't been addressed.
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185 Q. But the point I am simply making is this: That in 1973, what is contained in the annual report there, would seem to be in line with the suggestions being made by the Society back in the late 1930's, 1938/39 and then the early 1940's, as to how the problem could be solved by giving money to families, whether it be families where a parent had gone away or families where the child was an illegitimate child, as it was at that time, that the solution to the problem that's arrived at in 1973 is precisely what the Society was saying should be done back in the 1930's and 1940's; isn't that the situation?

A. I think the role -- since its establishment, the role of the Society has been to attempt to identify what social policy would help protect the children.

186 Q. The point I am simply making is this: The policy that you suggested in the 1930's and 1940's should be implemented, is finally taken on board by a Government here in the State in the 1970's?

A. Yes, I would agree with that.

187 Q. It took them a long time to learn; didn't it?

A. Yes.

188 Q. In relation to the matter that I was dealing with earlier, one of your reports, and I think Mr. Gageby mentioned it in passing and did quote from it and it did provoke a reaction from some of the people who were in the institutions when it was read out, it is something that I do want to bring up with you before I finish. And that is in the 1948/49 annual report,
Dublin and district branch, which I think has been
opened by me and by Mr. Gageby previously?
A. Yes.

Q. Under the heading "industrial schools" on page five of
that?
A. Yes.

It says as follows:

"During the year we have had to arrange
for the placing of a large number of
children in industrial schools chiefly
because their parents were unable to
maintain them but in some case because
their home conditions were so
undesirable as to make it necessary to
remove them.

There is no doubt that in these schools
they receive care and attention and a
sound education and are brought up to
be useful members of the community.

Nevertheless, however grateful we may
be for the devoted work of the Orders
which conduct these schools it must be
recognised that the children are to a
large extent deprived of home
influences and that it would be much
better if we could avoid sending them
to such institutions. If their own
homes are impossible good foster homes
would give them a healthier and happier
introduction to life. It is however
seldom possible find such homes in the
cases presented to the Society.

There is another aspect of the careers
of such children which calls for
consideration. Those committed through
no fault of their own and even of their
parents there are others who find their
way into industrial schools through the
courts on the grounds of some form of
juvenile delinquency, even if it is
only such unruliness as failure to
attend the ordinary primary schools.
These children form a small percentage
only of the inmates of these
institutions but in the publically eye
many of the children leaving such
schools are branded with the taint
introduced by these few."
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1
2  It is very much to be regretted that
3  children who have done nothing to
4  deserve such a character should suffer
5  from the shortcomings of a small
6  minority and it is emphatically not the
7  fault of the schools concerned. But
8  the fact remains and provides a problem
9  which will have to be faced in the
10  future. One remedy would appear to lie
11  in some sort of reclassification of
12  industrial schools which would allow of
13  the segregation of delinquents.
14
15  Perhaps the worst instance of the
16  injustice to children from the
17  prevailing reputations of these schools
18  occurs where parents have to apply for
19  committal when they cannot find anyone
20  to care for their children when they
21  have to leave them to undergo hospital
22  treatment.
23
24  The whole question of the treatment of
25  deprived children in this country calls
26  for investigation such as it has
27  received recently in England.
28
29  There are other aspects also of the
30  industrial school child which we
31  would pay attention. What's is his
32  future when he's thrown out on his own
33  resources on this charge? The more
34  lucrative trades are not open to him
35  under the system of closed unions, even
36  if he were trained to one of them at
37  school. Again there is seldom any
38  provision for the extension to the boy
39  or girl who shows promise of education
40  beyond the primary stage. It is not
41  surprising that many of our more
42  experienced officers try to avoid the
43  easy course of committal even where the
44  task of bringing about suitable home
45  conditions seems almost insuperable."
46
47  Again, back in the 1940's there was very serious cause
48  for concern in the Society for putting children into
49  schools even though they felt they were going to get a
50  good education and being well treated there?

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A. Yes.

Q. At this stage the Commission has heard significant amounts of evidence in terms of how children were treated in the schools and it would certainly seem in my submission, that a statement that:

"There is no doubt in these schools that they receive care and attention and a sound education are brought up to be useful members of the community."

Would certainly be challenged by many of the people who were there and it seems to be a kind of very blase remark made given that the Society didn't have any role in inspecting the schools or in anyway doing follow up on the children, because there seems to have been no connection whatsoever, other than as you say in an odd letter back for one reason or another or an Inquiry as to whether or not a family are now fit to take a child back?

A. Yes, I don't know the basis on which they are making that statement.

Q. Because certainly from the records there would certainly seem to be nothing in the records that would lead to a conclusion that anyone from the Society has spent any time in the schools to see how they are run and would have that particular piece of knowledge?

A. That's correct. I also think, I think I have identified in the statement, I think it is reasonable to suspect that the Inspectors and the ISPCC/NSPCC
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would have had the expectation that the Department of Education, the certification process, would have been testifying to the quality or lack of quality in the schools. I think -- and I don't know what the basis of that statement is, but I think it is clear the ISPCC/NSPCC didn't have a role in terms of assessing the quality in the schools.

Q. Can I ask you a little bit about the situation with regard to when the children were leaving schools and the fact that at that stage there was a concern, did the Society itself ever consider, having had a role in putting children into care, that it would or should see what they could do for children aftercare or be involved in any way in helping children in aftercare or did the fact that they came out at 16 mean they were no longer considered to be children by the Society or worthy of its attention?

A. I think there is no evidence from the material that the Society engaged in any aftercare, engaged in thinking about it or providing aftercare. I think the 1908 Act defined the child at 16 and I think they would have assumed that after 16 they were adults. I think it would be fair to say, based on my knowledge, that society in general would have considered 16 to have been the cut off for children. It wasn't until the 1970's, I think that the Society began to look at attempting to provide some support to children who had been placed in care by the Society and had attempted to support them to reintegrate and to build up
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1 relationships with their families. I think there is
evidence in the material that some projects were
established to attempt to do that.

194 Q Now there is one last thing that I want to deal with
and it is just in terms of you mentioned the particular
problems that arose for the Society in dealing with
illegitimate children, I mean we had much evidence
yesterday in terms of the poor house or what were more
recently known as the county homes and children being
taken from there and sent into care or into fostering
or whatever for periods which do not seem to have been
successful, I think under the poor laws it was boarding
out and it does not seem to have been terribly
successful. Was it the experience of the Society that
the illegitimate children were more likely to end up in
care than the children in the families?

A. There is no statistics in that regard, unfortunately.
It wasn't a categorisation that was used so I don't
know. But I think there is clear evidence from the
annual reports where the NSPCC/ISPCC have identified
the difficulty of placing -- taking illegitimate
children away from the parents and the placing of those
children in the institutions. I think they have tried
to identify that that wasn't an ideal mechanism

195 Q Because certainly many of the children who were in
institutions who were illegitimate have very
significant stories to tell in terms of the effect of
their illegitimacy and the way they were treated in
there and that, it seems to have had an added
difficulty, whatever about what you have described as the problems in society outside, inside in the institutions it certainly seems to have been a reason for them being treated in specific manners which legitimate children may not have been treated, owing to the fact that they were illegitimate or, as the term at that time was, bastard, and that seems to have been taken out on them; was the Society in any way aware of that particular aspect of them being taken into care?

A. No, I think from the evidence that I have read, I think certainly there is a sense of the difficulties that the mothers faced in terms of — I think the word shame is used. I think there is evidence through the case files of mothers of illegitimate children not being able to return home until the children were dealt with, so to speak. That somewhere was found for them. So I think you are getting a sense of the sort of issues of social stigma that illegitimacy apparently carried at that time. I would feel that that would transfer. But certainly nothing from the material that I have read indicates any issue in regards to the residential facilities with regards to them being treated any differently from others.

MR. McGRATH: I have no further questions, Chairman.

END OF EXAMINATION OF MR. GILLIGAN BY MR. McGRATH

THE CHAIRPERSON: Thank you very much. Now,
Mr. Paul Gilligan

Mr. MacMahon, have you any questions?

MR. MACMAHON: I have a few questions just.

MR. PAUL GILLIGAN WAS FURTHER QUESTIONED, AS FOLLOWS,

BY THE COMMISSION:

Q. MR. MacMAHON: Firstly, in relation to the collection of subscriptions by the Society, I think the Inspector's directory on page 39 refers to a rule in relation to this heading, "Subscriptions and Contribution to the Society", and on page 39 it says:

"Only under special circumstances and under instructions is an Inspector allowed to collect money, except collections under maintenance orders. In the event of a contribution being made to an Inspector for the relief of a case he must remit the amount at once to the central office and await instructions as to its application. A receipt will be furnished to the contributor whose names and address should be sent with the remittance."

What was the policy of the Society in relation to the collection of monies from industrial schools?

A. I'm aware that this issue has arisen within the Commission and we looked for information with regards to that and didn't come up with anything other than one
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reference in a case file to communication where an Inspector was advised not to take a donation, I think it is from a residential institution, and it refers to the fact that there had been some suggestion in the past that there had been some pecuniary advantage, I think is the reference, paid to Inspectors.

But I mean, I think the best way I can answer this is that each of the annual reports identifies sources of income and it seems to be pretty thorough in the context of the categories and there is no evidence in those annual reports of any payments being made from residential institutions. So, if you take any of the annual reports that have annual accounts they divide up the sources of income which were all voluntary pre-1963, from collections, events like sale of works, legacies, subscriptions which appear to be membership, like a membership fee. And I would think that if there was any arrangement for the Society to be paid money from residential institutions that it would be identified within the annual accounts.

I think the second possibility raised was that the Inspector themselves were taking funding. But I think if that is the case then they would be breaching clearly the guidelines, the directory, because I think it is clear from the directory, in two or three places and you have quoted one, that they were not entitled to take payments or any subscriptions without notifying
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their honorary secretary, the head office and that they
would be receipted. So I couldn't see that the those
payments would not show up in annual reports. And
there would be no rational in 1942 or 1938 not to show.
There would be no reason why they wouldn't show those
payments if they were being received, in my view.

197 Q. The reference where this issue came up was in relation
to a Visitation Report, it was from 1952, and concern
was raised and appeared to be raised in relation to two
separate Inspectors of the ISPCC, or NSPCC as it then
was, and the requirement that a payment be made of £9
in one case was queried by the visitor, the
congregational visitor to this institution. Reference
is made to the bursar considering it to being more like
a bribe to induce the Inspector to bring boys to the
school but the Superior stated that it was a
subscription to the Society's funds and that was the
explanation that was given to the congregational
visitor at that time?

A. Yes, I mean, I suppose I can only really repeat that we
-- in addressing ourselves to providing a statement to
the Commission and giving this evidence, we took the
view as a Society that alongside our own trawling of
information that we would engage two independent
consultants and they were given -- they were asked to
review all the documentation and specifically while
they were doing that this issue arose within the work
of the Commission and we said to them we want to know
if there is any evidence supporting this claim. We did
not come across any.

We did come across, and I will find the reference now, the communication within a case file of a letter identifying that there had been such an allegation but saying that the Inspector was not to accept a donation. That would suggest that there was some allegations made in regards to this previous to that, perhaps in the 1940's, and that they were trying to deal with it.

But again I would restate -- I mean, one of the situations that would appear to be clear, certainly up to 1956 and after 1956, the reporting mechanisms on finance appeared to be very structured and I would be surprised if there was a source of financial income that wasn't being demonstrated in the financial reports and I would not see why it wouldn't be, because I presume if there was a structure to receive payments that that was a formal structure that would be a clear form of income.

Yes. That particular visitor points out to the fact that the Superior had brought the matter up to Provincial level within the Congregation and it had been approved, the payment had been approved at Provincial level and was made. Then in passing the visitor referred to the fact that another Inspector whom the visitor names, expects to get expenses also. He's referred to in the report as being a well known sponger. There was one other thing that I wanted to
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ask you about in relation to the Inspector's directory, this is the document which you referred to in your report as being a 1947 document but it is perhaps somewhat older than that, I think?

A. Yes.

Q. It is hand dated 1947 by the owner, or by a previous owner of the document, his name is on the front and it is dated 10th January 1947?

A. That's correct. It could relate back to the 1930's. We put that date on it because there was no publication date on the document and that was the nearest we could get.

Q. I want to ask you about one thing in it. Just before the contents page there appears to have been a note, it is a note that appears -- from the photocopy that I have got, it appears to have been glued in position, just ahead of the contents page, if you might open the directory and take a look at it?

A. I wonder would it be possible for me to get the original document.

Q. That would be helpful. Yes.

A. If you have that here. (Same Hand) Thank you. There is a couple of amendments. One of which is amendment to the superannuation scheme.

Q. I'm not concerned with that. If you just go to the contents page.

A. This is the:

"Note to be affixed to Inspector's directory."

98
Sexual offences.

Q. Is that a note that has been glued in position? It is an additional note that appears to have been glued into the page facing the contents book. It says:

"Note to be fixed to Inspector's director."

And then it refers to sexual offences?

A. That's correct.

Q. I will just read it:

"For the purpose of this directory, if the Inspector receives information from any quarter alleging a sexual offence, incest, carnal knowledge or indecent assault, he should make no inquiries into the allegation or take any statements but should refer the information to the local police without delay."

What's known about the provenance of that insert?

A. Very little, I am afraid. I don't know when that was inserted, where it came from, where it arrived. What I can say slightly off the point, and I apologise for this, but there is a second directory dated 1960, which had written in some of -- certainly the superannuation amendment had been written into the 1960's document and in that document that's removed and there is sections on investigating sexual offences and there is also inclusion in the medical reports expected from the doctors around sexual assault and outrage and suspected outrage. So I think -- I don't know the dates of that particular memo but I would suspect that it coincided with the -- remember this was a UK booklet and it coincided with the awareness within the UK of
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this whole area of sexual offences and I think the 1960's amendment perhaps reflects the growing awareness of the need to investigate that. But I can only speculate.

Q. And it would perhaps reflect an awareness of the criminality of such behaviour?
A. Yes, a growing awareness, I think, of that. Well effectively yes, that the Inspector had -- I mean, one of the distinctions that is made in, both in the directory and in the annual report, is the fact that the Inspector is not a policeman, not a guard, I think it is the distinction to ensure that this sexual offence will be investigated as a criminal offence as opposed to within the context of maybe cruelty or the role of the director. But I am speculating on that, I don't know.

Q. There was a reference to -- and as you are aware there are very few papers extant in relation to the workings of the Kennedy Committee?
A. Yes.

Q. But one document that we have received from the Department of Education is a query that the Kennedy Committee made or District Justice Kennedy made to the Department of Education arising out of concerns expressed to her by an Inspector -- by the secretary, I think, of the ISPCC relating to punishment in one of the industrial schools and District Justice Kennedy was asking that this matter be investigated by the Department of Education. That document is accompanied
by a document which is described as the ISPCC complaint, which describes precisely what the complaint is all about. What's the knowledge of the ISPCC of that complaint at this stage, and indeed what knowledge does the ISPCC have of other complaints that may have been made in relation to how the industrial schools were conducted?

A. Again, the trawl of information didn't provide -- we came across no evidence that Inspectors were informed about complaints relating to industrial schools. I think there is one piece of evidence -- there is one reference in a case file, I think to -- and we mention in the statement, of an allegation against a teacher and the Inspectors dealing with that. But we didn't come across any information in our trawl with regards to industrial schools. I am not aware of the information you are referring.

Q. The Kennedy Committee was conducting its inquiries in 1969 and the inquiry which District Justice Kennedy made of it is dated -- well, a reminder is dated 5th May 1969, so that postdates the fire in Molesworth Street by a considerable margin?

A. Yes.

Q. Is there any explanation where the documentation relating to that type of complaint or category of correspondence might have gone to?

A. Well, unless -- I am just looking to my colleagues. I am nearly sure that we have archived all of these specific cases, material up to -- in existence up to
maybe the 1990's, so if it was a case it would have emerged. I think the administration files are not archived and I mean quite frankly they are in boxes in our head office. We have never archived them and it is perhaps...(INTERJECTION).

UNKNOWN SPEAKER: You were supposed to do it.

A. There was perhaps some information in regards to -- if this was dealt as an administrative matter as opposed to a specific case then it could be within those files. But if it was a specific case we would have it in our archives. But finding a specific case would not necessarily arise in terms of the research we have done for either this purpose or previously. We are talking about 8,000 plus cases, we would need somebody to identify the case and then we would go and find it. I think the focus of the researches was on the 1930's, to the present day, but we wouldn't have focussed necessarily on the 1969/70's time.

UNKNOWN SPEAKER: Tell us what you got to find these things?

THE CHAIRPERSON: Please stop, for goodness sake.

UNKNOWN SPEAKER: Ask the question.

THE CHAIRPERSON: Mr. Gilligan, just try to answer the question, it is very hard not to be distracted, but try to answer it.

A. Our Chairman at the time was on the Kennedy Commission so we were involved in the Kennedy Report. That's all I can really say.
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THE CHAIRPERSON: Have you many more questions, Mr. MacMahon?

MR. MACMAHON: No, I don't in fact, I have one more question I wanted to deal with.

THE CHAIRPERSON: Okay.

Q. MR. MACMAHON: I don't know if you were conscious of the evidence which was given on behalf of the Department of Health and the part I want to ask you about is in relation to the current arrangements in place in relation to fostering. I think the evidence was that there are about 5,000 children currently in fostering in Ireland and that -- sorry, about 5,000 children in care, just over 4,200 are in foster care. The evidence, I think, was that no inspections have been conducted since 1999 when social service inspectorate was set up, apart from a very small number, I think something in excess of 50 inspections as part of a pilot scheme.

Does the ISPCC have a view in relation to the need for inspections in the present day and age?

A. I think we are on the record -- I mean, there are a number of concerns we would have with the current child protection and childcare system. I think that it is clear from the knowledge we have of the current residential care system that there is a lot of difficulties. I think there has been a lot of advancement in that area, even with the establishment
of the inspectorate has been a significant development. But I think it is really important if we are going to provide quality care for children in care that there are regular inspections and that the recommendations that they make are adhered to, not just by the individual residential institutions but at Government and Department level, so it really is important to ensure that inspections do occur.

Mr. MacMahon: Thank you very much.

Mr. Gageby: Thank you.

The Chairperson: Do you want another go?

Mr. Gageby: No, I don't actually, Mr. Chairman. I just want to come back to something I was just aware earlier on when I was almost finishing with Mr. Gilligan that there is a bit of unhappiness with a phrase I used earlier. I hope the Committee doesn't think I did use such a phrase to refer to any child, I was referring to the danger of such a matter. It is just because I am amicus curiae, I would not like the Committee to think that you would understand that I had referred so disparaging to a person, because I certainly didn't.

The Chairperson: Very good. Thank you for clarifying that.

Mr. Gageby. Mr. O'Donoghue, have you anything? Or Ms. O'Clerigh?

Ms. O'Clerigh: I think Mr. Gilligan might just like to...(Interjection).
THE CHAIRPERSON: What's going to happen next, I am going to ask Ms. Shanley and Mr. Lowe. You have no questions that you want to ask, Ms. O'Clerigh?

MR. O'DONOGHUE: No, I am just indicating sure that Mr. Gilligan wants to add something himself.

THE CHAIRPERSON: What I was going to do was to finish up the question by inviting Ms. Shanley and Mr. Lowe to ask any questions they want and if Mr. Gilligan wants to say something at the end of that, well and good.

Q. MS. SHANLEY: Just one question, if I may. Mr. Gilligan, did any Inspectors between 1930 and 1970, were any of them ever removed from office or disciplined or monitored in any way?

A. Unfortunately I don't know that.

Q. MS. SHANLEY: Was there a monitoring procedure on how they did their work?

A. It would appear that they operated effectively independently. There is no evidence that there was -- the directory clearly indicates that they must report to the Honorary Secretary of each branch, but there was no evidence that there was any structured supervision or monitoring of their role.

Q. MS. SHANLEY: Would these people have simply applied for this
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1 job?
2 A. That's correct.
3 Q MS. SHANLEY: And once they got the job they were sent out and there was no subsequent monitoring of them?
4 A. That would appear to be -- well, other than would have been direct management from the Honorary Secretary and I think the Inspector's directory identifies how important it was for the Inspector to furnish all -- for example, they weren't entitled to take any proceedings against families.
5 Q MS. SHANLEY: But the onus was on the Inspector to communicate with head office, there wasn't an onus the other way around?
6 A. The structure was there was Honorary Secretary in each branch. Say there was 14 branches, Limerick, Mayo, Clonmel, the Honorary Secretary in that branch would be effectively line managing the Inspector. But there wasn't -- we didn't come across any evidence of a sort of structured sit down and supervise situation. It would appear that it was through recordkeeping and through very clear distinct reporting responsibility seeking permission to warn a family, to seek procedures, to instigate procedures for committal or for prosecution. So there was a management structure. They weren't on their own, per se, but how structured that was in terms of sitting down and managing as we would know today is...(INTERJECTION).

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Q. **MS. SHANLEY:** Just very briefly I would ask you, you discussed donations. In fact the phrase used in the course of Phase II was expenses. I just want to clarify with you, was there any circumstances under which Inspector received expenses from industrial schools for the costs incurred in bringing children to that industrial school, because they sometimes accompanied the children? Were they paid their expenses were doing that?

A. I don’t have any evidence and we have come across none that there were. That’s all I can say. And it would appear from the directory, I would have to check the reference, that there is a section on expenses, I think, if you just bear with me for a second.

Q. **MS. SHANLEY:** Yes.

A. There is some mention of expenses of warrants here, but there isn’t -- I would be surprised if they were receiving expenses, that it wouldn’t be covered in the directory or wouldn’t be accounted for in the annual reports. The reference here is to expenses of warrants. It says:

"The expenses incurred in executing warrants are not recoverable from either party but are repayable out of the police fund."

Then it talks about:

"If any accounts received by an inspector, he must forward it to the central office where correspondence with the police or authorities would be undertaken. The expense of the conveyance of prisoners is not payable"
to the Society."

I mean, I can't answer you definitively but I have come across no evidence of expenses or payments from residential institutions, certainly not documented.

MS. SHANLEY: Thank you.

THE CHAIRPERSON: Mr. Lowe.

MR. LOVE: Just one question. The original Council of Windsor Rules, if you like, for the Society stated:

"Its objective to prevent the public and private wrongs of children and the corruption of their morals."

I just want to know what the corruption of their morals had as an implication for how the Society functioned?

A. I'm not sure what that referred to in general terms, but I think the way the Society appeared to interpret that in Ireland was how it was defined in the 1908 Children Act and there is a number of categories including a parent engaging in prostitution. I think there is also reference to drunken and disorderly father, who had been found guilty of an offence against a minor. I would also like to point out that that category of moral risk was identified as a category -- sorry, a way of categorising complaints, or categorising contacts, and it represented a very low number, an extremely low percentage of the work of the Society. I think one of the charts we have moral danger and immoral offences you are talking about .17%
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of referrals; .86% of -- so, less than 1% of the referrals.

so I don't know exactly and it wasn't defined, the directory didn't define it clearly. I suppose one of the key points arising for me in looking at this research was that because of the nature -- most Inspectors came from the police, were retired policemen or army officers, and I think they adhered very strongly to the 1908 Act and all their categorisation is directly related back to that and I think the issues of moral threat relates back to how that's defined in the 1908 Act.

Mr. Lowe: Thank you.

A. Thank you.

The Chairperson: Now, Mr. Gilligan, did you want to finish up by saying something?

A. I just wanted to take the opportunity to make two points. The first is to say that the ISPCC welcome the opportunity to contribute to the work of the Commission and to hopefully be able to give some insight into the functioning of the Society over the years.

Secondly, as I have said in my statement, but for the benefit of people who have not seen the statement, I suppose I want to clearly say and express our profound regret to those people who following committal to an industrial school on application by a member of the
ISPCC were subsequently subjected to any form of abuse. I want to genuinely express that regret, both from the Society and from myself.

**THE CHAIRPERSON:** Thank you very much, Mr. Gilligan.

A. Thank you.

**END OF FURTHER QUESTIONING OF MR. GILLIGAN BY THE COMMISSION.**

**MR. McGRATH:** Sorry, Chairman, before the Board rises, I have a couple of matters that I want to address you on.

**THE CHAIRPERSON:** Certainly, thank you very much to Mr. Gilligan. If you want to, you can sit if you to, or if you want to leave and gather your stuff in a minute. But whatever you want like, Mr. Gilligan.

**MR. McGRATH:** The first matter I want to raise is something arises out of some questioning I was doing yesterday and I was asking about the difference between children who were placed in care under the boarding out system, vis-a-vis those who were sent in under the order of a court and stuck there until they were 16. I was contrasting how much easier it was for one to get out than the other and Mr. Gageby, in passing, mentioned licence, that I wasn't dealing with that particular problem.
The context of the question that I was asking was in terms of where children were going out to what are called godparents or families and certainly there has been some evidence and certainly people have mentioned to me about the fact that at times those godparents or those families would like to have adopted those children and it didn't happen.

In that context, if Mr. Gageby is raising the question of licence being available, I was going to suggest to the Commission that his clients, the Sisters of Mercy, just even just in respect of maybe Goldenbridge, could do a trawl through their records and see and give to the Commission an indication of how many children were allowed out on licence to live with their godparents or with families who expressed such an interest and that might deal with that particular aspect of the matter which I brought up yesterday.

THE CHAIRPERSON: Yes. Thank you very much.

MR. McGrath: There are a couple of other things I have been asked about. One of them is in relation last week, part of the week was set aside for the hearing in public section of experts, that the Commission has brought forward. That I don't know whether it was adjourned or what happened to it last week but I do know it didn't take place. I know from looking at the website that it would appear to have been cancelled. I suppose from the point of view of the people that I represent they
are somewhat anxious to know as to whether it is the
intention of the Committee to hear that evidence in
public or whether there will be any hearings at all or
whether it is cancelled or adjourned or what the status
of that is.

THE CHAIRPERSON: The position is,
Mr. McGrath, that with most
of the reports we are waiting to get them In fairness
to the experts in some instances we have extended or
changed the instructions that we gave them And as to
the nature of the hearing, that will depend on what we
think is necessary when we have the reports. We will
consider the reports and we will decide how best to
deal with them One way or another they will be taken
into account in our report.

But obviously depending on whether there is unanimity
or it is likely to be there is anything controversial
or to be disputed those are matters that we will have
to take into account, bearing in mind fair procedures
obligations.

The short answer is -- so, when we have the reports we
will have to consider how best to deal with them That
may involve -- it may involve public consideration of
them; it was slotted in to our schedule to enable us to
do that and that would have been when we did it but it
also may not. So I don't want to people to be thinking
that we are changing our minds or whatever.
Mr. Paul Gilligan

Not that we avoid changing our minds if we think it is correct to do so. So that's the position, Mr. McGrath. I'm not really in a position to tell you.

MR. McGrath: I mean just clarification in terms of whether it had been cancelled --

THE CHAIRPERSON: No, no, there is no problem

MR. McGrath: -- or adjourned because there is some concern, as you can understand.

The last matter that I have been instructed to say to you is that I understand that various committees of the Right of Place Organisation have met this week in relation to the Commission and I am asked to tell you, Chairman, that they have voted no confidence in you at this stage. That's a matter that I have been asked to say.

THE CHAIRPERSON: So be it, Mr. McGrath. So be it. Very good. Thank you very much and thank you for your assistance and we are now adjourned. Thank you again, Mr. Gilligan.

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