

COMMISSION TO INQUIRE INTO CHILD ABUSE

HELD AT 145-151 CHURCH STREET, DUBLIN  
ON FRIDAY, 18TH JUNE 2004

BEFORE

MR. JUSTICE SEÁN RYAN

CHAIRPERSON OF THE INQUIRY

ORDINARY MEMBERS:

DR. IMELDA RYAN, Consultant Child and Adolescent  
Psychiatrist  
MR. FRED LOWE, Principal Child Psychologist

I hereby certify the  
following to be a true  
and accurate transcript  
of my shorthand notes in  
the above hearing.

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MEMBERS OF THE COMMISSION PRESENT

REGISTRAR TO THE INVESTIGATION COMMITTEE

MR. BRENDAN REIDY

COUNSEL FOR THE COMMISSION: MR. NOEL McMAHON SC  
MS. KAREN FERGUS BL

Instructed by: MS. FEENA ROBINSON

FOR DPT. OF EDUCATION: MS. DOI RBHILE FLANAGAN SC

Instructed by:

FOR THE ROSMINIAN ORDER: MR. D. HARDIMAN SC  
MS. E. LEAHY BL

Instructed by: DAVID O' SHEA SOLICITOR  
O' DONOVAN SOLICITORS  
73 CAPEL STREET  
DUBLIN 1

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1                   THE HEARING COMMENCED, AS FOLLOWS, ON FRIDAY, 18TH  
2                   JUNE 2004:

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THE CHAIRPERSON:                   Good morning everybody.  
  This hearing is scheduled  
to facilitate our hearings into Ferryhouse  
principally, but if people want to speak about any  
issues in relation to Oakden that is all right. But  
Ferryhouse is the one that we are going to schedule  
for hearings on 7th July.

I suppose, Mr. Hardiman, may I ask you, I know that  
you are representing the Institution, is there  
anything that you want to say? Is there anything  
that we can clarify for you in relation to our  
hearings?

MR. HARDIMAN:                       Mr. Chairman, thank you  
  very much, Members of  
Investigation Committee. We are grateful for and  
appreciate the purpose and encouragement which is  
contained in your statement of 16th June last. We  
support and accept the desire of the Committee and  
the Commission in general to make progress. On  
behalf of the Rosminian Institute of Charity in  
Ireland I will say emphatically that we wish there to  
be no confrontation or adversarial content in any of  
the Commission's proceedings, so far as that is at  
all possible. We expect it to be possible.



1 Insofar as we meet today at your invitation to  
2 consider what procedures and the manner in which a  
3 hearing in relation to Ferryhouse can proceed, may I  
4 say that we accept that sexual abuse and physical  
5 abuse occurred at Ferryhouse during the time of your  
6 Inquiry.

7 MEMBER OF THE AUDIENCE: I am glad to hear that.

8 THE CHAIRPERSON: I don't want interruptions.  
9 We have had this before. I  
10 don't want it. Am I clear?

11 MEMBER OF THE AUDIENCE: No, you're not.

12 THE CHAIRPERSON: Very good. If you  
13 interrupt again I will  
14 suspend these hearings and we will go into private  
15 session and you will be entirely excluded. I am not  
16 in private session, and I am not going to argument  
17 with you. Is that absolutely clear? I know who you  
18 are. I don't want to name you but there is no  
19 question here, I am not tolerating this. Is that  
20 clear? Very good.

21

22 I am sorry, Mr. Hardiman, I don't have an  
23 acknowledgment as to behaviour of the gentleman in  
24 front. If it happens again, if he interrupts again I  
25 will suspend the session and we will go into private  
26 session.

27 MR. HARDIMAN: Mr. Chairman.

28 THE CHAIRPERSON: I want everybody here to be  
29 under no illusion. This is



1 not a circus and I am not going to have people  
2 interrupting at will from the audience.  
3  
4 Okay, that being clear. I hear what you are saying.  
5 I hear you are being spoken to down there by somebody  
6 sensible. I just want to make that absolutely clear.  
7 Very good. Now, Mr. Hardiman.  
8 MR. HARDIMAN: Mr. Chairman, in specific  
9 reference to that. The  
10 Rosminians are conscious of the depth of feeling  
11 which this issue holds for people. The person who  
12 has just spoken can rest assured that his feelings,  
13 anger and anxieties will not be disregarded. People  
14 who feel like him may rest assured equally.  
15 Having said, Mr. Chairman, and I hope with  
16 consistency with what the Rosminians have done with  
17 the Commission as under your predecessor, it may well  
18 be possible that your Inquiry into Ferryhouse can be  
19 conducted in a way which is not stressful for those  
20 who have complaints to make, and can be seen in what  
21 was, I think, the true spirit and intention of the  
22 Commission's Inquiry in the first case, although  
23 trammelled by legal considerations, can be conducted  
24 in a fashion which is not adversarial.  
25  
26 It may well be that -- and I can offer some  
27 suggestions on the assumption that I am invited. It  
28 may well be that the Inquiry might be carried out in  
29 approximately three phases. I say this, of course,



1 in no dogmatic way, and knowing that you are open to  
2 suggestions from survivors groups and those who have  
3 complaints to make. I think that the first phase  
4 would be an introductory phase, but I would hope that  
5 given that we have no desire to be confrontational  
6 that the introductory phase might be a little longer  
7 than you might have envisaged, and could incorporate  
8 a brief view of the administrative context, the  
9 staff, the boys, even the Rosminian's reactions to  
10 complaints in recent times. Their trauma is not the  
11 focus and the Inquiry of the Commission but it is a  
12 real trauma also.

13

14 In particular in that part a section might be devoted  
15 briefly to the concept of divergence of attitudes  
16 about the school.

17 THE CHAIRPERSON: Can you explain that for  
18 me, Mr. Hardiman?

19 MR. HARDIMAN: Yes. The title may not be  
20 completely appropriate. It  
21 is the best I can provide. It is to allow for the  
22 fact that there are differences of views which are  
23 not necessarily confrontational, which don't  
24 necessarily meet or contradict each other, which can  
25 coexist even in the minds of some complaints.  
26 Certainly in the minds of some Rosminians. This may  
27 be the correct way of approaching issues of conflict  
28 which otherwise become confrontational, and viewing  
29 it as a neutral point for Inquiry because it is, I



1 believe, a distinct phenomenon and a thing in itself.  
2 However, I have labelled it at your invitation and  
3 not because I would give it that emphasis  
4 voluntarily. There may be other issues, subsections  
5 of that phase which can be identified as well. Those  
6 are merely suggestions.

7  
8 In the second phase, I think appropriately, was  
9 envisaged in any event as the private hearings of  
10 individual complaints. I have little that I can  
11 usefully suggest in relation to that phase. In some  
12 respects organisation is probably a good idea by  
13 time, obviously, maybe issue, and possibly by  
14 reference to those against whom allegations are made.  
15 But how you prioritise that is a matter for  
16 consideration.

17  
18 The third phase would deal with everything else, but  
19 it is far from any other business. It would probably  
20 be the most important once individual complaints have  
21 been heard. It would deal with, I would suggest  
22 again as categories, the nature of abuse. That is to  
23 say the nature of an offender, the nature of  
24 institutions and how they might militate inexorably  
25 against dealing with disturbances to their regime,  
26 and general societal context of some of the forms of  
27 physical abuse, financial and other matters.

28  
29 There is inevitably some degree of duplication,



1 hopefully it be superficial, between the first and  
2 second phases. When I speak of administrative  
3 introduction in context in the first phase I don't  
4 mean to duplicate the time. I mean merely that  
5 insofar as possible completely uncontroversial  
6 aspects, but more than any type of superficial  
7 overview be seen. For example, I say that because if  
8 a manager of an industrial school or his role is to  
9 be examined in relation to abuse it has to be seen  
10 what his role is in general in some degree of depth.  
11 To see what it is he is seeing and how he recognises  
12 things.

13

14 There may well be other phases, Mr. Chairman. I  
15 offer that merely as a suggestion as to how you might  
16 approach it, and at least how we see it. There may  
17 well be much else to discuss and to some degree this  
18 is extemporary, and the proceedings of the Commission  
19 will be extemporary and need revision from time to  
20 time I believe.

21 THE CHAIRPERSON: Well, that is perfectly  
22 correct. If it is  
23 necessary to change procedures in the light of what  
24 fairness demands or convenience, subject to fairness  
25 demand, then obviously we will do that. We try to  
26 make it clear that we can adapt ourselves to  
27 different approaches depending on the institution and  
28 what are the issues.

29





1 Mr. Hardiman, if it is convenient can I ask you  
2 something? I don't expect necessarily that you will  
3 want to answer here and now but at some stage I think  
4 it might be convenient. If we take the body of  
5 specific and individual complaints and, obviously,  
6 without referring to any one of them. But if we take  
7 the body of complaints that have been notified by the  
8 Investigation Committee to your clients, in view of  
9 our -- and I note your acknowledgment, which  
10 obviously is one of the first things we have to ask  
11 under the legislation; did abuse happen? It is  
12 acknowledged on behalf of your clients that it did.

13

14 Our next thing is to get some notion of the scale of  
15 that. Is it convenient of us to ask whether your  
16 client's attitudes remain as they responded to us, or  
17 have they altered in the light of our announcements  
18 about not naming individuals? In other words, if we  
19 come to the specific complaints will we take those as  
20 previously notified or is there any alteration in  
21 that?

22 MR. HARDIMAN: Well, Mr. Chairman, I have  
23 two aspects of response to  
24 that. One of them is the soft response and the other  
25 is a hard response.

26

27 The soft response is; we have, as we do, we believe,  
28 conducted ourselves in the course of hearings as we  
29 believe and we have submitted individual responses as



1 we believe. We have resolutely declined to deny a  
2 case in which we have no evidence for denial. That  
3 is a reversal of all of the established legal  
4 procedures. If I may say, and invite a little  
5 sympathy, it has been a difficult task, but it has  
6 been, I have to say, a most emphatic decision of the  
7 Rosminian Order.

8  
9 My hard response is that I would ask both the  
10 survivors and the Committee to accept the statement  
11 which I have made, and which is in written form and  
12 will be reiterated in the course of the hearings  
13 commencing next week, precisely as it is, and as in  
14 the same spirit of not having confrontation that the  
15 statement we have made may be taken as a response to  
16 the individual cases. It would perhaps be to  
17 increase a confrontational approach and to go further  
18 on that line.

19 THE CHAIRPERSON: All right. Thank you very  
20 much.

21 MR. HARDIMAN: That is not an evasion. It  
22 is a stepping aside from  
23 the question, because we have never wanted to engage  
24 the issue as such a question.

25 THE CHAIRPERSON: I think I understand  
26 perfectly. I know that my  
27 colleagues will understand. Thanks very much,  
28 Mr. Hardiman. Mr. McMahon, is there anything that  
29 you want to ask arising out of that?



1 MR. McMAHON: Just very briefly. What  
2 the legal team is currently  
3 doing is it is preparing for the hearings which are  
4 due to commence on 7th July. As part of that it is  
5 currently endeavouring to schedule dates on which  
6 witnesses may be required to hear. I think that the  
7 intention will be to identify and prioritise the  
8 witnesses and the order in which it is intended to  
9 call them. The legal team is in a position to, at  
10 this stage, send out the statements and accompanying  
11 documentation relevant to those statements to the  
12 witnesses whom it intends to bring forward for the  
13 initial batch of those hearings. The intention would  
14 be that those statements will go out during the  
15 forthcoming week.

16 THE CHAIRPERSON: All right. When  
17 Mr. Hardiman suggested the  
18 three phase hearing did that seem a convenient way of  
19 approaching it?

20 MR. McMAHON: What we had previously  
21 announced, Mr. Chairman,  
22 was that the investigative hearing into Ferryhouse  
23 would start with a general hearing which would be in  
24 public. That is entirely, I think, in accordance  
25 with what Mr. Hardiman is suggesting here today.

26 THE CHAIRPERSON: That fits in with the  
27 introductory thing that he  
28 was talking about.

29 MR. McMAHON: Yes, indeed, it does. Then



1           it was announced that the hearings would go into  
2           private session, at which individual instances or  
3           complaints would be examined.  
4  
5           I think our previous announcements haven't gone  
6           further than that. But I don't think it was  
7           envisaged at any stage or by anybody that that would  
8           be the end of matters. What Mr. Hardiman has to say  
9           seems to make abundant sense; that at the conclusion  
10          or at some stage, having heard in private session  
11          from individuals who were present in the institution,  
12          it would seem that the Investigation Committee would  
13          then have to go on to deal with other matters. I  
14          think your statement... (INTERJECTION)  
15          THE CHAIRPERSON:                 These are the more general  
16   questions that he was  
17          talking about.  
18          MR. McMAHON:                     The more general  
19   questions. Indeed, in your  
20          speech in the Shelbourne Hotel you highlighted that  
21          there were general and important questions which  
22          would have to be highlighted. Also, it has been  
23          emphasized that when they are being dealt with they  
24          will be done, insofar as possible, in public.  
25          THE CHAIRPERSON:                 All right. Thank you very  
26   much. Yes, Mr. Hardiman.  
27          MR. HARDIMAN:                     Mr. Chairman, if I could be  
28   forgiven for possibly  
29          labouring the obvious. I do think that the



1 introductory phase, which might have been envisaged  
2 as slight in my view respectfully and our view  
3 respectfully, deserves the appellation of a phase and  
4 would probably deserve somewhat more time and detail  
5 than might have been originally envisaged as a brief  
6 introduction.

7 THE CHAIRPERSON: I appreciate that. I think  
8 consistent with what we  
9 have been announcing that we are not seeing this as a  
10 brief introductory and then get on with the real  
11 business of individual complaints. We are,  
12 obviously, not ignoring individual complaints.  
13 People may misunderstand this but we will try to make  
14 it as clear as we can. But we do regard the other  
15 issues as being extremely important. You need have  
16 no fear that we are going to try to truncate, even if  
17 we call it the introductory phase. We can call it  
18 Phase 1, or whatever it is. We quite appreciate, in  
19 fact we are probably more keen than may have been  
20 made clear previously on these other important  
21 issues. It is hard to characterise them but we all  
22 know what they are. So I don't think you need have  
23 any fear about that.

24  
25 In any case if there are difficulties or issues to be  
26 raised our general attitude is to try to do this by  
27 consensus. Obviously where that is not possible we  
28 will decide. We will make those decisions and we are  
29 not afraid of making them. But if it is possible to



1 agree or to accommodate what people can reasonably  
2 ask of us we are perfectly happy to do that. Whether  
3 that is the complainants or the respondents, or  
4 anybody else. Any of the respondents. We are happy  
5 to accommodate people where possible. Where that is  
6 not possible, okay, we will make the most convenient  
7 decision. Mr. McMahon?

8 MR. McMAHON: If I may add to that just  
9 very briefly. I think that  
10 perhaps the more immediate concern in relation to the  
11 point raised by Mr. Hardiman is that we bear in mind  
12 what he is saying when it comes to our scheduling  
13 private hearings, and that certainly can be done and  
14 will be done. We also have made the point that there  
15 may be a degree of flexibility necessary, even when a  
16 certain part has been scheduled that it may be  
17 necessary to revisit if it proves that an earlier  
18 phase continues beyond what the legal team in its  
19 deliberations had considered was likely.

20 THE CHAIRPERSON: It is also possible, it  
21 seems to me, that if it is  
22 necessary to fix particular dates for witnesses who  
23 are not otherwise available they can be taken so to  
24 speak, out of turn, out of the phase. In other  
25 words, if we are at more general questions and then  
26 we have to interrupt that, we will try not to do it  
27 but if it has to happen, so be it. That is what I  
28 would certainly be thinking of. Yes?

29 MEMBER OF THE AUDIENCE: I just want to make an





1 Mr. Hardiman's question  
2 INAUDIBLE.  
3 THE CHAIRPERSON: No. No. You are referring  
4 to something that is High  
5 Court. Now you and I well know that that has nothing  
6 to do with this Inquiry. You know that. Let us not  
7 fool ourselves and be pretending to be doing  
8 something we are not doing. I am not going to ask  
9 Mr. Hardiman. Even if Mr. Hardiman wanted to reply  
10 to you I wouldn't permit him to reply to it because  
11 that is not the business of this Committee. That is  
12 perfectly clear. Let us not waste time over this.  
13  
14 Ms. Flanagan, do you want to say anything about  
15 procedures, or do you want to get involved in that?  
16 MS. FLANAGAN: Not at this point,  
17 Mr. Chairman. In relation  
18 to this mornings hearing there are matters that may  
19 need to be raised at a later stage, but not for the  
20 purposes of this morning.  
21 THE CHAIRPERSON: Of course. There is no  
22 problem about that. Is  
23 there anything else of a procedure kind that we need  
24 to clarify? Since there is not, thank you very much.  
25 Thank you, Mr. Hardiman. Thank you, Mr. McMahon.  
26 Thank you to everybody for turning up this morning.  
27 Our hearings then are scheduled for 10:30 a.m. on  
28 7th July. We will be beginning by going into public  
29 session. That is understood, Mr. Hardiman; is that





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right?

MR. HARDIMAN: Yes.

THE CHAIRPERSON: Following that phase we will be in private session.

Then the question arises as to the subsequent matters. If it is possible to do it in public the legislation has a bias in general towards public so we will lean towards that. That is what we intend to do.

Our next hearing is scheduled for Monday next, here at 10:30 a.m. Thank you very much.

THE HEARING WAS THEN ADJOURNED TO MONDAY, 21ST JUNE 2004 AT 10:30 A.M.



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