

MEMORANDUM TO: B.J. GROSS Q.C.
FROM: C.A. RIMMER

TRUSTEES OF THE CHRISTIAN BROTHERS

1. Our instructing Solicitors in this matter, Carroll & O'Dea, have requested that a report be prepared concerning the inspection of documents in this matter for the purposes of confirming our general advice as to the defendability of these claims and the appropriate position to take in relation to settlement and also to clarify the strength or otherwise of the client's position as regard the indemnity sought from Catholic Insurances Limited. A request has been received from Catholic Church Insurances for "evidence" that the Trustees were not aware of facts or circumstances which it knew or ought to have known could give rise to a claim under the terms of the Special Issues Policy prior to February 1992.

It is envisaged that such a report might categorise particular incidents of complaint in terms of the adequacy or otherwise of the administrative response and the administrative structure that was in place for dealing with such complaints. It is also possible that the report might cover the documentary picture in relation to individual Brothers such as Brother Murphy.

2. The most important issue to be dealt with immediately however is the question of notification to the insurer as the special issues cover expires on 1 July 1995. It is important to consider whether or not the materials examined to date disclose matters not covered in Barry Coldrey's works and if there are such materials whether the insurer should receive notification of them.

Prior to summarising the materials inspected in this

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Memorandum, it should be noted that inspection of the documents has only been completed in relation to documents dated prior to 1960. Documents relating to the period 1960-1995 have not been inspected and we are not in a position to determine whether there are any matters covered in those materials which warrants specific notification to the insurer.

SUMMARY OF DOCUMENT INSPECTION:

1. Files containing documents and correspondence relating to Bindoon and Castledare including some child welfare reports. There is nothing of concern in these materials.
2. Clontarf account book and Clontarf cash books. These do contain some reports of inspectors from the Education Department between 1952 and 1966. There is nothing of concern in these matters.
3. Visitation reports for Bindoon 1937-1964. There is some reference to immorality between the boys but no reference to any incidents involving Brothers and the boys.
4. Visitation reports of Tardun 1930-1965. There is some reference to immorality between the boys and also some comments about over-familiarity of Brothers towards the boys. There is nothing involving any incident of assault committed by Brothers on the boys.
5. Documents and correspondence concerning Clontarf and Tardun. There is nothing of concern in these documents.
6. Bindoon annals 1940-1953. There is nothing of concern in this document at all but it does provide a useful picture of life at Bindoon and during this period.
7. Tardun annals 1936-1964. There is nothing of concern in

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this document at all but it does provide a useful picture of life at Bindoon and during this period.

8. Minutes of the Council Meetings - 1923-1934
Reports of Immorality/Abuse of Children

1922 - Brother [REDACTED] was accused of impropriety with boys involving exposing himself and rubbing one down but denied having touched any boy indecently and the Council concluded there was not sufficient evidence to prove guilt.

1927 - Brother [REDACTED] from St. Augustine's Orphanage admitted to immoral tampering with boys and was immediately expelled. Exp.

1928 - Brother [REDACTED] was charged with immorality but the Council held the case didn't warrant application of Canon 653. The matter was then later referred to the General Council when three boys from Mt. Carmel College wrote out statements containing charges. The allegations seemed to involve touching the boys immodestly and making the boys touch him on a number of occasions. Hogan denied the charges but the matter was referred to the General Council.

1929 - Brother [REDACTED] was charged with immodestly touching a boy and admitted the charge. It was held as there was no exposure on the part of the Brother and no other boy was concerned that he could be severely reprimanded and the matter need not be referred to the Superior General.

1934 - Brother [REDACTED] was charged with immoral behaviour with boys in Geelong and admitted the truth of part of the charged but denied the more serious accusation. Admitted hugging and kissing boys. Held on

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the basis of the investigation by the Superior that the charges were proved but as it was 3 or 4 months since the commission of the offence he could not be expelled but merely given a reproof to be regarded as a canonical warning and a penance imposed. Warned that any recurrence of the offence would lead to expulsion without further warning.

1934 - Brother [REDACTED] - similar case to [REDACTED] involving immoral behaviour with boys in Brisbane. Admitted hugging and kissing boys but denied anything more serious. After consideration of letters from Superior held the offences were proved but due to the elapse of time since the commission of the offence he could not be expelled and a penance was imposed and the reproof was to be seen as a canonical warning. Also advised any recurrence would lead to expulsion without further warning.

1935 - Brother [REDACTED] charged with improper handling of boys in Nugee. Admitted charges. Voted for an expulsion and then recommended he seek a dispensation. *Disp.*

1936 - Brother [REDACTED] charged with handling indecently a boy at Albion Heights. Acknowledged his misdemeanour. Was immediately changed to Balmain. Was severely reprimanded by the Brother Provincial, penance imposed and warned that repetition would lead to expulsion.

1935 - Brother [REDACTED] was charged with immorality but denied handling boys indecently although admitted inspecting naked boys to gratify impure desires. Incidents were spread over 2 years and concerned 7 or 8 boys. Vote in favour of expulsion. *denied part / exp.*

1936 - Brother [REDACTED] was charged with impure

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handling of the private parts of a boy at St. Vincent's Orphanage, South Melbourne. Admitted being admitted alone with the boy but declared he was giving him medical treatment. Was rebuked and given a penance.

Brother [REDACTED] was accused of interfering immorally with some boys during a retreat. Brother Severin agreed to leave for Ireland where he said he would face the General Council. Voted to refer the matters to the General Council.

1937 - Brother [REDACTED] accused of indecent handling of boys at Middle Park. Admitted the charge and was expelled. adm.
Exp.

1937 - Brother [REDACTED] was charged with indecent action involving a boy at Charles School in Waverley. The charge was found to be unsubstantiated.

1938 - Brother [REDACTED] was charged with having exposed himself at Rozelle before a child and also inviting a child to touch his private parts after exposing himself. Unanimous vote in favour of him being expelled but doubts expressed concerning his mental condition. Exp.

1939 - Brother [REDACTED] was accused of having taken boys into his bedroom on different occasions and rolled and tumbled on the bed with them. Admitted once touching private parts of one boy but there was no exposure on the part of either himself or the boys. Agreed to allow him to make annual vows.

1940 - Brother [REDACTED] was accused of getting 3 boys on separate occasions to expose themselves and then handled them improperly. Initially did not deny offence and applied for a dispensation but then decided not to accept

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the dispensation and stressed there was no danger of public scandal. Decided not to refer case to General Council and was given a formal warning and a penance.

1940 - Brother [REDACTED] accused of immoral behaviour towards a boy in Indooroopilly. Boy stated Brother [REDACTED] had opened his trousers and invited him to press him to see if he could hurt him and Brother Francis declared charge was exaggerated. Was investigated by the Brother Superior and concluded that the evidence was indefinite so no action was taken.

1941 - Brother [REDACTED] accused by several boys of interfering immorally with them in the dormitory of Abergowrie. Matter investigated by Brother Superior. Levander denied all charges and contended the boys were evil minded. Vote in his favour. No action taken.

1941 - Brother [REDACTED] charged with immoral action involving a boy at Manly and admitted the charge. The case was referred to General Council.

1941 - Brother [REDACTED] charged with handling young boys immorally after they were asleep in the dormitory at Rostrevor. No exposure or contact otherwise than touching their private parts in their sleep. It was agreed not to refer case to General Council. He admitted his guilt, was given a penance and a canonical warning. Shortly after resigned as Superior of Rostrevor.

1942 - Brother [REDACTED] was found guilty in the Public Courts in Dunedin of indecent exposure before a boy. It was agreed that extraordinary imprudence rather than immorality caused the incident and there was no necessity to forward the case to the General Council.

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1942 - Brother [REDACTED] was charged with exposing the private parts of at least 6 boys in St. Vincent's Orphanage, handling the same and having exposed himself in one case. Admitted looking at and handling the private parts of boys in the orphanage but for instructional purposes only. Was given a warning and a penance was imposed.

1942 - Brother [REDACTED] was charged with taking boys into his bedroom at St. Augustine's Orphanage and fondling boys. Denied placing boys on his bed or handling them indecently. Received a warning and was given a penance.

1943 - Brother [REDACTED] charged with interfering indecently with boys at Geraldton - 8 boys. One boy had been seriously interfered with on at least 6 occasions. Admitted his hand might have touched the boy's private parts. Vote in favour of his dismissal 5:0.

1945 - Brother [REDACTED] charged with indecently handling boys in 1940 and 1941 in Tamworth. Admitted part of the charge. Unanimous vote of his guilt. The question of expulsion to be referred to the General Council.

1946 - Brother [REDACTED] accused of taking boys into his room and handling one boy's private parts over his trousers. Given a canonical warning.

1948 - Brother [REDACTED] charged with touching some boys indecently. Admitted the offence. Recommended he apply for a dispensation and advised that if he did not he would be dismissed.

1950 - Brother [REDACTED] charged with kissing and fondling a small boy. Given a canonical warning.

dismissed

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1951 - Brother [REDACTED] charged with indecently handling boys in Perth. Denied the matter and the case was adjourned until an investigation could be carried out.

1951 - Brother [REDACTED], novice in Minto, was dismissed after charges of indecent exposure at St. Enders. Dis.

1952 - Brother [REDACTED] was charged with indecently handling boys at Lewisham. Evidence that he had placed his finger in the anus. Denied the charges. Council voted 5:0 against him on the question of guilt and voted that he receive a canonical warning. Note Brother Cazetan had been in hospital since the charges and was still there at the time of the meeting.

1953 - Application by T. Deane (Aquinas Deane expelled in 1935?). Voted 5:0 in favour of readmission.

1953 - Brother [REDACTED] charged with handling embraced a boy and also touching him indecently outside his clothes. Admitted the charge. Voted not to refer the matter to the General Council. Was given a canonical warning.

1953 - Brother [REDACTED] was charged with handling got into bed with juniors at Rostrevor and having touched their private parts. Also charged with indecently touching a boy. Denied the charges but the Superior was inclined to believe the stories of the boys. Vote deferred for further investigation.

1953 - Brother [REDACTED] was accused of interfering with boys at Waverley. Admitted the offences which involved opening a boy's trousers and handling the private parts. Vote was 5:0 in favour of a canonical

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warning.

1953 - Brother [REDACTED] charged with handling a boy's private parts at Waverley. Felt charge was not substantiated and Brother [REDACTED] was given the benefit of the doubt but a letter of censure for indiscretion was sent to him.

1953 - Brother [REDACTED] charged with interference which took place in early 1950 at Yeppoon. A letter of severe censure was sent as it was felt another canonical warning dating back to 1950 would not be appropriate.

1954 - Brother [REDACTED] was charged with immoral behaviour with boys involving handling them improperly. Denied charges but his explanations were not considered satisfactory and a canonical warning was issued.

1955 - Brother [REDACTED] charged with interfering with the private parts of a boy at Waverley. Admitted the charge. Given a canonical warning. Note it was considered that there was little likelihood of public scandal resulting from the incident.

1955 - Brother [REDACTED] was charged with objectionable behaviour with boys. Behaviour involving kissing boys, asking them embarrassing questions and indecently handling a boy by placing his hands up the legs of his trousers and touching his private parts. Some of the evidence was old. The final judgment rested only on recent evidence. Admitted the accusations were substantially correct. Was given a canonical warning for repetition of conduct involving a dangerous familiarity with boys.

1956 - Brother [REDACTED] charged with repeated indecent interference with a boy at St. Patrick's

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College, Strathfield. Also alleged a criminal assault of homosexual nature was committed on the boy. Was found guilty and matter reported to the Superior General with a recommended he be dismissed.

1956 - Brother [REDACTED] charged with immorality involving a boy at St. Patrick's College, Goulburn. Involved impure handling of the private parts causing seminal emissions and also sodomy. About 7 boys aged 12 or 13 were involved and the offences extended over a considerable part of 1955 and the first 2 weeks of 1956. The charges were admitted. The Council voted Brother Kiarnan guilty of the act of immorality and referred the case to the Superior General. Brother Kiarnan showed a contrite disposition which the Council considered gave hope for rehabilitation and also noted there was no real danger of a public scandal.

1956 - Brother [REDACTED] charged with getting a boy in Brisbane to expose his private parts on 2 occasions. Admitted the charge stating that he wished to help the boy in regard to temptation. Given a canonical warning.

1956 - Brother [REDACTED] was charged with improper conduct at Young. The matter was adjourned for investigation.

1956 - Brother [REDACTED] was reported to have made homosexual advances to a number of boys and admitted that he had failed to keep the second vow in regard to several boys. Admitted the charges. Also charged with interfering with a young girl. Council voted that he be severely censured in relation to the indiscretion with the girl.

1956 - Brother Romuald Hills was charged with kissing boys and also punishing boys on the bare buttocks at a

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camp. Admitted to the kissing and expressed sorrow for his offences. Was censured.

1958 - Brother [REDACTED] charged with kissing and handling boys. Admitted his guilt. Had already received a canonical warning for similar offences in 1956. Decided he should receive a second canonical warning.

1958 - Brother [REDACTED] was charged with immodestly handling boys private parts at Castle Hill. Denied the charge but admitted having kissed the boy. It was noted there were 2 previous known offences of a similar nature at St. Gabrielles in 1947 and Strathfield in 1950. Was judged guilty of the impropriety but decided not to recommend expulsion. Was given a canonical warning.

[REDACTED]
1958 - Brother [REDACTED] accused of kissing and fondling boys at Rose Bay. Some reference to touching the private parts of a boy. Admitted to kissing and fondling boys. Was given a canonical warning.

9. GENERALATE CORRESPONDENCE (1921-1946)

1921 - File 001 - document 22 refers to fondling and immorality with boys involving Brothers [REDACTED]

[REDACTED]

All other cases mentioned in the Generalate correspondence have already been dealt with in the minutes of the Council meetings above.

10. DOCUMENTS LOCATED IN CHRISTCHURCH, NEW ZEALAND

In file 3 there are documents relating to Brother [REDACTED] [REDACTED] and Brother [REDACTED] who were both at Castledare in 1969. Carey admits to petting boys. He was

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transferred to Bindoon and then withdrew from the congregation. Letters include statements from 2 of the boys [REDACTED] and [REDACTED]. [REDACTED] and [REDACTED] are also named by [REDACTED] as being interfered with by [REDACTED]. [REDACTED] states that Brother [REDACTED] interfered with [REDACTED] and [REDACTED] who were twins (no surname). This appears to be the first reference to [REDACTED] and [REDACTED] who were at Castledare in 1969. CCI should be notified about this material.

11. RESTRICTED MATERIALS PROVIDED BY THE PROVINCIAL
IN EARLY 1995

File 1259 includes some correspondence relating to Brother [REDACTED] at Castledare in 1944. It appears that a parent complained to the Detective Office about interference by [REDACTED] of his son. Foy is one of the Brothers named in the current proceedings.

There is also mention of a Brother [REDACTED] who was accused of indecent behaviour with boys in Brisbane in April 1946. There were 2 incidents and it appears that he was given a canonical warning. His name does not appear in the Council minutes.

Letter 5th July 1951 to Brother Provincial from Tevlin also concerns Police investigation into boys' accusations against Brother [REDACTED] at Middle Park in Victoria.

It is clear that most of the incidents above are minor incidents which simply involve kissing or fondling boys. One would think that it is unnecessary to notify CCI of these minor matters. However, consideration should be given to notifying CCI about the incidents involving Brother [REDACTED] [REDACTED], Brother [REDACTED] and Brother [REDACTED]

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I have spoke to Gerard Phillips of Carroll & O'Dea who will prepare a similar summary for you concerning the documents which he inspected.

CHAMBERS

27 June 1995

C.A. RIMMER