

**Notes on Meeting with Archbishop Hickey and Monsignor Keating**  
**Wednesday, May 1, 1996**

1. The discussion revolved around the concern of the Archbishop over intimations from the Christian Brothers' lawyers that they might join the Archbishop as a co-defendant in the New South Wales and/or Victorian litigation, and that this would be with a view to involving the Archbishop in some eventual settlement. The Archbishop's lawyers (i.e. CCI's lawyers, Madden Dunhill & Butler) had indicated that settlement in the order of \$9M was being spoken of, including \$2.5M for Slater & Gordon's costs.
2. We explained in general terms the reasons for considering joining other parties in the action:
  - a) to counter public perceptions that the Christian Brothers, as the only defendant in the NSW case, were the only people bearing responsibility for any wrongdoing or systems failures,
  - b) to strengthen our case in any cross-vesting applications in either or both of NSW and Victoria,
  - c) to involve the other parties who bore some measure of responsibility for the situation in the W.A. orphanages in any eventual settlement - however, it is not assumed that all parties would contribute in equal measure to any settlement.
3. The Archbishop emphasised his concern that the Christian Brothers would seek to have him joined to the action after the High Court had agreed with his argument that he was not a defendant. He was concerned about the effects on public perception, and especially in the local church, of the Christian Brothers suing the Archbishop. He wondered whether this might even have the effect of alienating the rest of the local church, especially the clergy from the Christian Brothers and their cause. He stated that he would legally resist any move by us to have him joined to the action.
4. Other points arising in the discussion included:
  - a) The Archbishop can see the logic of other parties being joined to the action, and especially the relevant State Government Departments, because they were in loco parentis, most of the children were State Wards, these Departments supervised and inspected the orphanages etc.
  - b) If joining the Archbishop to the action is meant to be a lever in regard to contributions towards a settlement, we need to bear in mind that the archdiocese is effectively broke. I think a figure of \$29M was quoted in regard to its debts.
  - c) Monsignor Keating referred to recent court cases (without any specific detail) and suggested that the judiciary had begun to distinguish more clearly within church organisation the different levels of authority and responsibility. That is, he was suggesting that a court wouldn't necessarily buy the argument that the Archbishop bore some degree of responsibility for the situation in our orphanages simply by virtue of being head of the archdiocese.

- d) It was noted that insofar as the complaints in the litigation relate to Bindoon, Bindoon was not then part of the archdiocese of Perth and came under the jurisdiction of the Abbey of New Norcia. A similar point could be made in regard to Tardun - it was, and still is, part of the diocese of Geraldton.
- e) We referred also to the points in the memo from Howard Harrison that there was evidence that some complaints made to the Archbishop at the time about the orphanages were not passed on to Strathfield, and also that some of the complaints relate to alleged misbehaviour by priests. Hickey and Keating responded that Archbishop Prendiville was always very particular and responsive to any complaints about misbehaviour and that there was nothing in archdiocesan files about complaints regarding the orphanages. They also noted that, if the priests named in complaints were monks from New Norcia, then this was also a matter relating to the jurisdiction of the Abbey of New Norcia, not the Archbishop of Perth.

Br. Tony Shanahan, cfc

May 2, 1996

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