

Royal Commission into Institutional Responses to Child Sexual Abuse
The Responses of the Catholic Church Authorities to allegations of child sexual abuse made
against John Joseph Farrell (Case Study 44)

**Response to Supplementary Submissions of Senior Counsel Assisting
the Royal Commission on behalf of
Bishop Bede Vincent Heather**

1 Introduction

1.1 The following submissions are made in response to the Supplementary Submissions of Senior Counsel assisting the Royal Commission in respect of the Society of St Gerard Majella (**Society**).

2 Evidence of Bishop Bede Heather

2.1 The evidence of Bishop Heather at the Royal Commission was given with the intent of providing assistance to the Commission to achieve its goals.

2.2 It is clear that throughout his evidence, Bishop Heather struggled with recalling information, conversations and events which occurred some 20 years ago. In the primary submissions in this case study, it is submitted by Senior Counsel Assisting, that Bishop Heather's evidence should be accepted¹.

2.3 Bishop Heather was candid about the deep regret for some of the actions that he took, which following the passage of some 20 years and in hindsight, he realised and conceded were not adequate².

3 Society of St Gerard Majella

3.1 Bishop Heather acted on allegations of sexual misconduct which were made to him in a serious and proactive manner. It was at a meeting with Dr Roger Austin in late April 1993 that he was informed of allegations of sexual misconduct in the Society. It was either at that meeting, or very shortly thereafter, that he appointed Dr Austin and Fr Peter Blayney to conduct a formal independent investigation into the allegations, and prepare a written report for the Bishop (**Austin Inquiry**)³.

3.2 Bishop Heather ensured that the brothers who were the subject of the allegations were formally stood down from public ministry in the Diocese, and elsewhere, while the Austin Inquiry took place.⁴

¹ The Responses of Catholic Church Authorities to allegations of child sexual abuse against John Joseph Farrell, Submissions of Senior Counsel Assisting the Royal Commission at paragraph 476, 527

² T21083.8, T21085.30, T21120.47, T21125.22

³ Statement of Bishop Bede Heather dated 9 September 2016 (**Statement**) at paragraphs 8 and 9

⁴ Decree Special Inquiry into the society of St Gerard Majella, 4 May 1993 CTJH.280.01077.0011, Letter from Bp Heather to Br Pritchard, 3 May 1993 CTJH.280.03003.0089, Letter from Bishop Bede to Rev. Robinson dated 11 May 1993 CTJH.280.03005.0484

- 3.3 The Austin Inquiry Report is dated 31 August 1993 (**Austin Report**). Bishop Heather does not recall on what date he was provided with the Austin Report, or when he spoke with Dr Austin about the Austin Report⁵. However, it is clear that by Friday, 10 September 1993, Bishop Heather had considered the Austin Report, and made the following determinations concerning the Society (**Austin Determinations**)⁶:
- (a) Removal of Br Robinson as Superior General of the Society⁷;
 - (b) Removal of Br Robinson from priestly ministry in the Society, and removal from residence in the Society community⁸;
 - (c) Removal of Br Pritchard from priestly ministry in the Society, and removal from residence in the Society community⁹;
 - (d) Removal of Br Sweeney, founder of the Society, from his position within the Society as General Bursar and Director of the Sisters¹⁰.
- 3.4 Bishop Heather's actions were swift and decisive. They exposed sexual misconduct that had been occurring within the Society, and ensured the removal from the Society of the perpetrators of sexual misconduct.
- 3.5 Subsequently, a further allegation of sexual misconduct at the Society was brought to Bishop Heather's attention. Bishop Heather immediately arranged a meeting with the accused, Br Sweeney, and ensured that Br Sweeney took leave from the Society while a further formal investigation took place.¹¹ The conduct which was the subject of the allegations against Br Sweeney were brought to the attention of police¹².
- 3.6 Bishop Heather took control of the Society by bringing it within the direction of his Diocese, and ultimately arranged for the Society to be formally dissolved, which was achieved by June 1995¹³.

4 Document destruction

- 4.1 There is no denial that some documents were destroyed by Bishop Heather, following the execution of a police warrant at his personal office. Bishop Heather acknowledged this in his evidence¹⁴.

⁵ Statement paragraph 28

⁶ Determination for the society of the brothers of St Gerard Majella following the report of the Special Inquiry 31/8/93 at paragraphs -9 and 12. CTJH.280.03005.0452, Circular Letter to all members of the Society of St Gerard Majella CTJH.280.01127.0026

⁷ Determination for the society of the brothers of St Gerard Majella following the report of the Special Inquiry 31/8/93 at paragraphs -9 and 12. CTJH.280.03005.0452, Determination in respect of Br Robinson CTJH.280.03005.0456

⁸ Determination for the society of the brothers of St Gerard Majella following the report of the Special Inquiry 31/8/93 at paragraphs -9 and 12. CTJH.280.03005.0452, Determination in respect of Br Robinson CTJH.280.03005.0456

⁹ Determination for the society of the brothers of St Gerard Majella following the report of the Special Inquiry 31/8/93 at paragraphs -9 and 12. CTJH.280.03005.0452, Determination in respect of Br Pritchard CTJH.280.01077.0216,

¹⁰ Determination for the society of the brothers of St Gerard Majella following the report of the Special Inquiry 31/8/93 at paragraphs -9 and 12, Determination in respect of Br Sweeney CTJH.280.02011.0012,

¹¹ Statement para 36 and 37

¹² Statement para 45

¹³ Statement paragraphs 46 to 48

- 4.2 As previously noted, Bishop Heather has been regarded by Senior Counsel Assisting as a witness to be accepted. In this regard, insofar as Bishop Heather's evidence was uncertain and unclear, this should be considered in the context of a person seeking to recall events following the passage of some 20 years.
- 4.3 Furthermore, Bishop Heather conceded the significant and irrational effect the execution of the police warrant in 1994 had on him, explaining that his personal office appeared to have been 'trashed'¹⁵ and that:
- "...from that point onwards I became a bit cautious about what I kept on file – maybe irrationally, as I look back on it now. I would say, in hindsight, I was traumatised by the event on December 13, 1995 (sic). It is one of the dates that stands out as a black day in my history.."*¹⁶
- 4.4 Bishop Heather accepted that the letter he wrote to Makinson d'Apice dated 15 August 1996 was loosely and carelessly drafted¹⁷. In this regard we note that while Bishop Heather conceded that he did not retain a copy of either the letter to Makinson d'Apice dated 15 August 1996 or a 1994 letter of notification to CCI, these letters were outward correspondence intended to notify the Diocese's lawyers, Professional Standards Committee and insurer, of allegations of criminal conduct by a priest within the Diocese.
- 4.5 Therefore, while it is acknowledged that Bishop Heather did not retain copies of these letters on his files, the very existence of the letters demonstrates Bishop Heather's practice of reporting allegations of sexual misconduct.
- 4.6 There is no evidence to establish that Bishop Heather had a 'practice of destroying documents' between 1994 and 1996. It was Bishop's Heather's evidence throughout that he was 'discretionary about what I filed'¹⁸. While this did involve the destruction of the file copies of letters sent outside his office, there is no evidence to suggest that Bishop Heather ever destroyed documents which existed only in his possession, and which therefore prevented State agencies, including police, from discovering information which disclosed possible criminal conduct by priests and religious' as is put forward at paragraph 35 and 36 of the Supplementary Submissions. To the contrary, Bishop Heather confirmed that the Diocese did not embark on any 'shredding process'¹⁹ and in fact, he did not have a recollection of destroying a lot of documents at all²⁰.

¹⁴ T21144.32-40

¹⁵ T21142.21

¹⁶ T21143.34

¹⁷ T21158.36

¹⁸ T21143.46

¹⁹ T21158.39

²⁰ T21149.12

5 Submissions

- 5.1 It is acknowledged that with the benefit of hindsight, and information which is available now, but not necessarily available to Bishop Heather 20 years ago, that more attention should have been given to the needs of those affected by the misconduct. However, it is clear that Bishop Heather was a Bishop who acted on complaints of sexual misconduct brought to his attention, and that he was prepared to investigate misconduct within the church, and impose sanctions upon those members whose conduct required reprimand.
- 5.2 It is submitted that Bishop Heather is a witness of truth, who sought to provide honest evidence to the Commission, albeit in circumstances where his memory of events frequently evaded him.
- 5.3 It is submitted that the submissions of Senior Counsel Assisting at paragraphs 34, 35 and 36 should not be adopted. While it is accepted that the Commission may make findings in respect of those letters which Bishop Heather did not retain on his files, it is submitted that the evidence does not support conclusions of conduct any further than a failure to retain copies of those letters, nor a motivation other than to maintain confidentiality of information given to him in confidence as Bishop.



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