ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

Public Hearing - Case Studies 28 & 35 (Day 159)

Level 17, Governor Macquarie Tower
Farrer Place, Sydney

On Monday, 29 February 2016 at 8.00am

Before
The Presiding Member: Justice Peter McClellan AM
Commissioner: Justice Jennifer Ann Coate
Mr Andrew Murray

Counsel Assisting: Ms Gail Furness SC
Mr Angus Stewart SC
Mr Stephen Free
THE CHAIR: Ms Furness, we will sit this morning from 8 now, until 9.30 I think. Is that the arranged time?

MS FURNESS: Yes, Your Honour.

THE CHAIR: And then take a short adjournment at 9.30 and resume again about 20 minutes later.

MS FURNESS: Thank you, Your Honour.

THE CHAIR: Then sit through until midday, Sydney time.

MS FURNESS: Yes. Just to announce my appearance I appear to assist the Commission with Mr Stewart SC and Mr Free, assisted by Ms Hahn, Ms Haggar and Ms Dargen, and I understand there will be others who have not yet sought leave or announced their appearance.

THE CHAIR: Yes, there are many familiar faces, but are there any new faces? No?

MS FURNESS: Apparently not.

THE CHAIR: Your information is probably not correct. Very well.

MS FURNESS: Your Honour, the hearing today and over the next few days is to hear evidence from Cardinal George Pell. As is known, Cardinal Pell was ordained a priest in the Diocese of Ballarat in 1966 and for part of the time he was a priest in Ballarat, he was also one of the Consultors to Bishop Mulkearns. In that role he had responsibilities, together with the other Consultors, to give advice to the Bishop on various matters, including the appointment of priests to particular parishes.

Cardinal Pell was a Consultor at a time when some of the priests who had offended against children were serving in the Diocese.

In 1987, Cardinal Pell was appointed an Auxiliary Bishop in the Archdiocese of Melbourne. Archbishop Little was the Archbishop of Melbourne during this time. In 1996 Cardinal Pell became Archbishop of Melbourne.

Cardinal Pell is currently the Prefect of the Secretariat for the economy for the Holy See. He resides
outside of Australia and beyond the Royal Commission's jurisdiction. The Royal Commission does not have the power to compel Cardinal Pell to appear before it. Cardinal Pell has agreed to give evidence and the Royal Commission decided that, although it was preferable for the Cardinal to give evidence in Australia, it was satisfied that he could give evidence via video-link from Rome having regard to medical advice.

Allegations have been made against Cardinal Pell by four witnesses who gave evidence in earlier hearings. Each of those witnesses, I understand, is represented and accordingly I will leave to those representatives questioning Cardinal Pell about those allegations.

I call Cardinal Pell.

THE CHAIR: Q. Cardinal Pell, Cardinal, can you see me? Can you hear me?
A. I can see you, certainly, and I can hear you.

<CARDINAL GEORGE PELL, sworn: [8.07am]

<EXAMINATION BY MS FURNESS:

MS FURNESS: Q. Cardinal, would you tell the Royal Commission your full name?
A. George Pell.

Q. And your current position, Cardinal?
A. As you stated it, Prefect For the Economy here in the Vatican.

Q. And that position, I think, was established in February 2014?
A. It was.

Q. What is your function as Prefect of the Secretariat, Cardinal?
A. Something equivalent to a treasurer, to the treasurer.

Q. Is that the treasurer for the Vatican; is that right?
A. Yes, for the Holy See.

Q. Is it the case that you have a delegation of some sort to be able to expend funds on behalf of the Vatican, or is your remit unlimited?
A. My remit is certainly not unlimited. I answer to the Council For the Economy, an international body of 15, eight Cardinals and seven lay people. They are something like the university senate, to whom I must answer.

Q. Cardinal, you're often described as the number third person in the Vatican; is that accurate?
A. I wouldn't say it was; people like to make these hypothetical lists. Some people would see the financial affairs of the Vatican as very low on the list.

Q. How would you describe yourself, Cardinal?
A. I wouldn't get into that game at all. I'm a senior official in the Roman Curiate.

Q. You said that some would see the financial affairs of the Vatican as very low; I take it, you don't share that view?
A. No, I think it's very important that church money is used efficiently, that the donations are used for the running of the church, and for the helping of the poor, that they're not wasted.

Q. Has it been a matter that's been considered by you, or those to whom you report or with whom you work, to set aside funds for those who have been abused by clergy elsewhere in the world in circumstances where the Diocese in which they were abused no longer have sufficient funds to compensate them?
A. As a preliminary clarification, my authority touches only the Vatican. Unlike most other Vatican councils or congregations, that is departments, they have some sort of authority around the world.

We have the Holy Father, Pope Francis, has instituted a special Commission for these matters, it's fairly young, but these responsibilities are met by national or local hierarchies, not by the Vatican.

Q. When you say national or local hierarchies, are you speaking about the Archbishop, however that position is described, in various jurisdictions; is that right?
A. Not exactly. Each Diocese is headed by a Bishop; they often get together in a region, such as Victoria, New South Wales, and then there is an Australian Bishops Conference.

Q. In the event that a Diocese doesn't have sufficient
funds to properly compensate those seeking claims on the basis that they've been abused by the clergy, where would those people go if the Diocese didn't have sufficient funds?
A. Well, I'm not sure we've ever been in that situation in Australia, I'm not sure of that, but they would go to the - the Diocese would go to the other Australian Diocese and religious orders would go to the other religious orders.

Q. And the Vatican, as you see it, doesn't have a role?
A. No.

Q. You've referred to the Pontifical Commission for the Protection of Minors which was set up in March 2014.
A. Yes.

Q. Was your advice sought before that Commission was established?
A. Yes, it was. I'm a member of what's called the Council of Cardinals, nine - we have no jurisdiction - or no jurisdiction but we're a council, informal council of advisors to Pope Francis.

Q. Did you give advice?
A. I strongly supported the propositions that were presented to the group by Cardinal O'Malley, who is also a member of the nine.

Q. Were those propositions ultimately translated into the Commission as we see it today?
A. I believe so.

Q. One purpose of the Commission is to propose initiatives to the Pope which are intended to repair the damage, to attach justice and to prevent the recurrence of similar incidents in the future.

Have there been any such initiatives proposed to the Pope?
A. I couldn't give book chapter and verse on this, but certainly they have been active, the Commission, in different parts of the world, I think particularly speaking of the church leadership in the Philippines and in India. I'm not a member, of course, of that Commission.

Q. When you say "they've been active in different parts
of the world", what do you mean?
A. I believe that one of the principal functions of the
   group is to ensure that appropriate procedures are put in
   place and there's an appropriate sensitivity amongst the
   church leadership.

Q. Procedures for the operation of the Commission, or
   procedures in relation --
A. No, no, for the operation - I'm sorry.

Q. Procedures for the prevention of sexual abuse by
   clergy and religious?
A. Or the prevention and dealing with crimes.

Q. The Commission was said to be provided with adequate
   human and material resources. Can you tell us who
determined what was adequate human and material resources
for that purpose?
A. I think they made direct representations to the Holy
   Father. I wasn't involved in any sums, but I made it quite
   clear at the Council of the Cardinals that whatever they
   needed should be made available to them.

Q. So, that was not a matter that you had to make a
decision in respect of the quantum of money to be provided?
A. No, not at all.

Q. I asked you earlier, Cardinal, whether the Commission
   had given any advice to the Pope and you spoke in terms of
   activity. Can you tell us whether or not there has been
   any advice given to the Pope?
A. I'm not quite sure; I will arrange for it to be
   tabled. The Commission put out a report on what it has
   achieved and what it is doing in November or December
   last year. That is available in English and I can arrange
   for it to be made available to yourselves.

Q. Presumably, it can be found on an appropriate website,
   Cardinal, do you know?
A. I would believe so, I would believe so.

Q. In June last year, Pope Francis approved the
   establishment of a special tribunal within the Congregation
   of the Doctrine of the Faith to judge Bishops accused of
   protecting priests who sexually abused children. Was your
   advice sought prior to the establishment of that tribunal?
A. I don't believe so.
Q. Was that a matter that the nine Cardinals you referred
to earlier were provided with the opportunity to advise?
A. I'd have to be careful, my mind is not entirely clear,
but I don't think so; I think that was set - I think it was
set up independently.

Q. Independently of the nine Cardinals?
A. Because only one of us - pardon?

Q. Independently of the nine Cardinals?
A. Yes. You see, we have no jurisdiction, no official
place where an informal body of advice to the Holy Father -
and especially for the reform of the Roman Curiate; that's
been our almost exclusive concern.

Q. As I understand - I'm sorry, Cardinal, go on.
A. No, it's okay.

Q. As I understand the document which was published which
established the tribunal, it referred to the Council of the
Cardinals agreeing unanimously on proposals and resolving
that they be submitted to the Holy Father.

Now, the Council of Cardinals is the body you've
referred to?
A. It is.

Q. It also refers to the Council of Cardinals having
authorised the provision of sufficient resources for this
purpose, or indicated to the Pope that such a thing should
be done. Do you have a recollection of that?
A. In general terms, yes; only in general terms.

Q. And again --
A. It's completely uncontroversial.

Q. Again, whose role was it to determine the sufficiency
of resources in relation to that tribunal?
A. I presume the tribunal would make recommendations to
the Holy Father and the Secretariat of State.

Q. So, not in relation to your area?
A. No. We don't directly control funds at all.

Q. Are you aware whether any appointments have been made
to that tribunal?
A. I think there have been. I'm not completely sure. I'm not sure how it is functioning or whether it has started.

Q. So, it may not have --
A. I'm not a canon lawyer.

Q. It may not have commenced, is that what you're saying, Cardinal?
A. No, it's not exactly what I'm saying, because I'm not quite sure how far it's gone.

Q. Does that tribunal propose, as far as you know, to produce public material about its work?
A. I would imagine that it would report, yes, its work.

Q. Cardinal, no doubt you're aware there has been some publicity recently about the training given to Bishops from Rome in relation to reporting obligations. Are you familiar with what I'm saying?
A. Yes, I - there was one talk there given, where the advice was unfortunate and it was rejected by the Commission you've been mentioning.

Q. So --
A. The speaker was one part of a series - for example, I spoke on the finances, he spoke on things psychological in this area.

Q. His advice, that Bishops should not necessarily consider themselves bound to report regardless of the civil laws, was rejected by the Commission; is that what you're saying?
A. That's correct.

Q. So, what's the position of the Vatican in relation to reporting obligations?
A. That the law of the land should be followed.

Q. Thank you. As you're aware, Cardinal, child sexual abuse by clergy has been an issue in the church for centuries, in that, there have been various rules and pronouncements in relation to it. You're aware of that?
A. I'm aware that this has been a problem right across society and unfortunately also in the church for centuries, as you said.
Q. It's also the case, as I'm sure you're aware, Cardinal, that there has been many inquiries around the world in relation to child sexual abuse and the Catholic Church; you're aware that there's been many inquiries?
A. Are these government inquiries or church inquiries?
Q. Well, there's a combination of both: there's been some government inquiries, some church or church commissioned inquiries in areas such as Canada, Chicago, Massachusetts, Ireland, the Netherlands and the like?
A. Yes. I'm not sure that they're all exclusively just on the Catholic Church. I'd imagine some of them would be very appropriately, like the Royal Commission, and touch on the problem right across - the institutions right across society.
Q. But you would accept that there has been many inquiries which have dealt, either in full or in part, with the Catholic Church?
A. That is correct.
Q. Of those inquiries which have done so, there appears to be a consistency in their findings in respect of the response of the Catholic Church to allegations, and that consistency seems to be in relation to those in more senior positions not taking the action that a reasonable person thought should be taken in respect of those allegations. Now, are you familiar with that?
A. Let me just say this as an initial clarification, and that is, I'm not here to defend the indefensible. The church has made enormous mistakes and is working to remedy those, but the church in many places, certainly in Australia, has mucked things up, has made - let people down. I'm not here to defend the indefensible.
Q. No, I wasn't particularly asking you to, Cardinal.
A. Thank you.
Q. The question is in relation to the consistency of findings of inquiries in many places in the world in relation to the actions of senior officials in the Catholic Church. Now, you accept that that is the case, that there has been a consistency of findings in relation to the Catholic Church?
A. Unfortunately, that - there's a lot of truth. I would also say that there are very few countries in the world who
have advanced as far as the Catholic Church has in Australia in putting procedures into place nearly 20 years ago. I think that's a matter of record.

Q. Can you help us, Cardinal, with why you think it is that the Catholic Church has operated in such a similar way across many different countries in the world?
A. Unfortunately, original sin is alive and well; the tendency to evil in the Catholic Church too, and sometimes it's better, sometimes it's worse, but for good or for ill the church follows the patterns of the societies in which it lives.

Q. So, you wouldn't suggest that it's just a case of a few bad apples, as it were, within the church?
A. I've never suggested that.

Q. And you wouldn't think that it's the case of a few weak or inactive leaders in the church?
A. No, unfortunately they weren't necessarily few.

Q. Does it suggest to you any structural problems in the way in which the church operates?
A. There are many levels of structures, and we'd have to be specific. I don't think it calls into question the divine structure of the church, which goes back to the New Testament, the role of the Pope and Bishops. I think the faults overwhelmingly have been more personal faults, personal failures, rather than structures.

Let me remind you that the reforms in 1996/1997 occurred within the old structures.

Q. The reforms you're referring to are the Melbourne Response and Towards Healing; is that right?
A. That is correct.

Q. I think, with each of those reforms, there have been issues in relation to the independence of the operation of those reforms; you understand that?
A. There have been questions, certainly in the material with which I was associated; I worked very hard to make sure there was independence of the judgment from the leadership of the church. Now, once again, these have proved, have been shown to be imperfect, but that particular form of independence in, I think both Towards Healing and the Melbourne Response, the independence in actually coming to decisions, I believe that was achieved
in many - most cases.

Q. You understand that the Royal Commission has published a report on redress, Cardinal?
A. Yes, I have, I've studied that.

Q. What's your view of the appropriateness of the structures recommended for the Catholic Church?
A. I would like to see a national system of redress which could be accessed by the churches and one in which the culpable parties would contribute to the payment of whatever the findings were.

Q. And that system would do away with any questions of independence, such as those questions which arise in relation to Towards Healing and the Melbourne Response; is that right?
A. Well, it would clearly show that such payments are not dependent on the decisions of the Catholic Church. No matter how fair and independent an agency funded by the church might be, there's always the danger that it will be found to be subservient.

Now, this is a problem faced by all judicial or legislative - not so much legislative - all such bodies; they're paid for by the government and the government has to, of course, ensure that they are able to work independently.

Q. But in those cases, Cardinal, it's not the case, is it, that the government agency has been responsible for the abuse which is the subject of the claim?
A. Could you repeat that, please?

Q. Certainly. But in those cases it's not the case, is it, that the government agency has been responsible for the abuse which is the subject of the claim?
A. Everyone is under the legislative power of the government and it's such a situation of independence that I would like to see for the Catholic Church.

Q. Just turning to Ballarat, if I can, Cardinal; as is well-known, you were born in Ballarat?
A. I was.

Q. Where was your schooling?
A. At Loreto Convent in Ballarat and at St Patrick's
Q. Thank you. Without wanting to embarrass you, Cardinal, it's the case that growing up you excelled at sport as well as academically?
A. I had some capacity in both areas.

Q. I think you're being modest, Cardinal.
A. Thank you.

Q. Your family was quite well-known in Ballarat; they ran the local or one of the local hotels?
A. Yes, I wouldn't want to exaggerate just how well known they were, but they did have, yes, a hotel there.

Q. Can I suggest, Cardinal, that you were identified early on as a prospective leader of the church?
A. I wouldn't plead guilty to that. Probably my Bishop gave me educational opportunities because he saw that as a possibility.

Q. You studied in Rome?
A. I did.

Q. Were there any other priests who you were associated with during your time in Ballarat who studied in Rome?
A. Yes, quite a number of them. Many of my contemporaries, unfortunately, did not get ordained or, it was a turbulent time, or left after ordination; left the priesthood.

Q. What was the turbulent time you're referring to?
A. This was the 1960s, we had the Vatican Council and you would remember at the start of the 1960s we had the invention of the contraceptive pill which has provoked a social revolution.

Q. And the priests that didn't get ordained, there was some relationship between that and what you've just described?
A. Yes, it would vary enormously from person-to-person, but here in the Roman colleges and seminaries it was a very interesting time, and it wouldn't be entirely misleading to say that there was a whiff of a revolutionary spirit about, but I don't want to overemphasise that. A lot of good people decided to follow other paths.
Q. Paths outside of the church?
A. No, not outside the church, outside the priesthood. Overwhelmingly they remained within the church.

Q. You also obtained a doctorate from Oxford in church history; that's right?
A. That is correct.

Q. That would have been an unusual qualification to have had among fellow priests in Ballarat?
A. Yes. I was one of the first, perhaps the first, Catholic priest to take a DPhil in the theology faculty since the reformation.

Q. That qualification, I take it, was paid for by the church insofar as it cost money?
A. Yes, and in those far off days the British Government paid the university fees for all students, including overseas students. I've always been very grateful to the United Kingdom for that.

Q. So the church wasn't out of pocket?
A. Oh, they were, yes, they had to pay board for me.

Q. You returned to Ballarat after studying and you had various positions as assistant priest, which I'll take you to later, but it seems that education and the education of children became an area of particular interest to you?
A. The Bishop asked me to take a role in that area and I did so happily.

Q. You ultimately obtained a masters in education, I think in the early 1980s?
A. I did.

Q. The first position, as I understand it, you had in relation to education was to be appointed as Episcopal Vicar for Education?
A. I'm not sure whether it was actually the first, but it was certainly a very early such appointment.

Q. That was, as I understand it, in 1973 and continued until 1984; does that sound right to you?
A. That is correct.

Q. As I understand what you've said in the past about that position, it was a significant source of advice to the
Bishop on education and supports and oversaw those working
in the Catholic Education; now, that's as you saw the role?
A. The way I saw the role, the way I will try to describe
it is the way it was, and that is, I was the Bishop's
representative; that meant that I chaired the Ballarat
Diocesan Education Commission, I sometimes represented the
Bishop at openings and things like that, celebrations like
that, and actually most of my time was spent - I was also
chairman of the board of a small Teachers College called
the Sacred Heart Teachers College and most of my time
educationally was spent trying to ensure its survival. And
it did survive as the Aquinas Campus now of the Australian
Catholic University.

Q. You also, as I understand it, described the role as
the essential link between the Bishop, priests, parents,
teachers and students; now, that's how you saw the role,
isn't it?
A. I would be very interested to see where I said that; I
think it somewhat overstates my role, it was not the
director of education.

Q. Perhaps if I can show you a document, Cardinal. I
hope that those with you have a copy of this document, it's
a note under your hand, Cardinal, dated 20 September 1984,
from you to Bishop Mulkearns. This document has only very
recently come to light, so I apologise for it not having
been provided earlier.

Those with you, Cardinal, have they provided you with
a copy of that document?
A. I don't think so.

Q. You don't have access to a screen with documents, do
you, Cardinal?
A. I believe not.

Q. I'm sure it will come to you shortly. While that's
waiting, perhaps if I can read the first page to you. It
begins:

My Lord

Please find enclosed some thoughts on the
role of the Episcopal Vicar For Education.

Then, with your best wishes. Over the page, there's
your thoughts as to roles and functions. Has it been provided to you yet, Cardinal?

A. No, counsel.

Q. We'll do our best to get one to you as soon as we can. That document, in the second paragraph under, "Role", and I'll read it for you:

The position is normally held by a diocesan priest, but could be filled by a religious, man or woman. Through this clerical/religious presence education is seen as one vital part of the church's apostolate ...

THE CHAIR: He has the document.

MS FURNESS: Q. Do you see that second paragraph under the heading, "Role"?

A. I do.

Q. Do you see the last phrase is that:

... the essential link between Bishop, priests, parents, teachers and students is also emphasised.

A. I think the emphasis there is on the religious presence, of course. Yes, I do see what is there. Could I just say, many Diocese do not have Episcopal Vicars for Education, and I was keen for the role to continue.

Q. The role to continue in the way in which you've expressed it in this document?

A. That's correct.

MS FURNESS: Your Honour, I tender that document.

THE CHAIR: I'll mark it as exhibit 28-147.

EXHIBIT #28-147 NOTE FROM CARDINAL PELL TO BISHOP MULKEARNS DATED 20/09/1984

THE WITNESS: Before you move on, can I draw your attention to some of the elements in that document, please?

MS FURNESS: Certainly.
A. The vicar is the Bishop's representative in all the areas of education, a significant source of advice to the Bishop, on education supports and oversees those (inaudible) working. This is not an executive role although the vicar might have other executive positions.

Then there's the paragraph you mentioned:

To chair of the Diocesan Education Board, which makes policy recommendations ...

Mentions the role as the chair:

To encourage cooperation and dialogue ...

To be an active 'ex officio' member of the advisory board of the Ballarat campus of the Institute of Catholic Education.

To encourage the provision of chaplaincy services.

That's entirely compatible with how I explained it to you.

Q. Thank you, Cardinal. It's also compatible with the phrase I put to you in relation to the essential link, isn't it?
A. Well, I would like to read:

The position is normally held by a diocesan priest but could be filled by a religious man or woman. Through this clerical religious presence education is seen as one vital part of the church's apostolate. This religious present ... the essential link between Bishop, priests, parents, teachers and students is also emphasised.

So just what is that essential link, it certainly would include the role of the Episcopal Vicar.

Q. In your role as Episcopal Vicar, did you from time to time visit schools that were Diocesan schools?
A. Very rarely. Perhaps more the opening, the blessing of a wing or an extension. I had no regular such role
because I was a full-time academic in the Institute of Catholic Education.

Q. And you were a full-time academic from 1974-1984, I think; is that right?
A. I think that's correct.

Q. In the first year you were Episcopal Vicar, you held that position at the same time as having the position of assistant priest; is that right?
A. That's correct, and I was chaplain, school chaplain, St Martins in the Pines, and I also lectured part-time at the then Sacred Heart Teachers College.

Q. Thank you. In your role as Episcopal Vicar for Education, did any teacher, principal, parent or school teacher or child, approach you about problems at any of their schools?
A. Well, that's difficult; I mean, there are many problems that arise in schools which would be taken up by the Education Office or by the council - the Diocesan Council for Education. So, yes, people would speak to me sometimes about problems.

Q. The problems that they spoke to you about, were they problems of difficulties with teachers and principals in relation to being overly affectionate or in some way touching them?
A. Well, it's a long time ago, but I can't remember such complaints, and normally they would have been addressed to the Education Office, not to the vicar.

Q. Well, that may be the case that normally they would be addressed, but from time to time they came to your attention, either before or after the Catholic Education Office?
A. Well, I can't remember any such examples, but my memory might be playing me false.

Q. Why might your memory be playing you false?
A. Because I don't have perfect recall.

Q. So it may have happened but you can't remember now; is that the effect of what you're saying?
A. No, I think you're putting words into my mouth. I don't remember any such thing happening and, therefore, I don't believe it did, but my memory is sometimes fallible.
Q. Cardinal, I was just repeating what you said in different language; what you said was, "I can't remember any such examples but my memory may be playing me false". That's the answer you give?
A. That is the answer, no more and no less.

Q. You've spoken of your time as the Director of the Aquinas Campus of the Institute of Catholic Education. As Director, were you responsible for the operation of the campus?
A. I was.

Q. During your decade at the campus, did you institute any policies or procedures in relation to complaint handling?
A. About what matters?

Q. About complaints.
A. That would have been covered in some sections on the course. They were not - I did not participate, as far as I recall, in those components. The thing would be to examine the handbook to see just what was done.

Q. You were, and the campus, were primarily concerned with educating people to be teachers?
A. Yes, the campus was one part of a three or four campus institution called the Institute of Catholic Education, and the courses were decided by the academic board who would recommend them to the council. In Ballarat at that stage we were perhaps exclusively preparing primary teachers.

Q. As part of preparing primary teachers, do you recall whether there was any emphasis on protective behaviours for children?
A. I can't remember what there was or to what extent there was.

Q. Do you recall that that was a developing issue in the decade that you were in that role?
A. No, it wasn't a particularly - a topic which was discussed enormously at all. That happened - a significant advance in understanding and level of discussion took place from the middle 1980s onwards; the late 1980s in particular.

Q. That "level of discussion", are you referring to the
Catholic Church generally or the educational components of it?
A. I think the Catholic Church generally as well as the educational component.

Q. Cardinal, over the years you've made a number of comments, or at least in some cases you've been reported as having made a number of comments, about your time in the Diocese of Ballarat. If I can suggest a number of views that you've held, and by all means tell me if they don't accurately represent your views.

You've said that the general attitude of the church to disclosures of child sexual abuse before that period of time you've described, that is, the late 1980s, was generally to not believe the child; you accept that?
A. I think that - no, I - that, I would now say that that is an overstatement, but it certainly was much, much more difficult for the child to be believed then.

Q. Those in the --
A. With the predisposition not to believe.

Q. And the predisposition was also to be dismissive of those complaints?
A. If they were not presented clearly, but it would vary from person-to-person, and there was never any suggestion that these - officially at any rate - that such accusations should be rejected out of hand.

Q. When you say "officially", what do you mean?
A. That there were no such statements by the Catholic Education Office or the Bishops or by official agencies.

Q. But unofficially it's the case, isn't it, that most complaints in the period of time we're talking about tended to be dismissed; do you accept that?
A. I don't have the statistics on that, but too many of them certainly were dismissed and sometimes they were dismissed in absolutely scandalous circumstances.

Q. When you say "absolutely scandalous circumstances", can you provide an example of what you're referring to?
A. Well, they were very, very plausible allegations made by responsible people that were not followed up sufficiently.
Q. By "responsible people", are you meaning adults?
A. By officials, I mean adult officials.

Q. I'm sorry, I misunderstood you. You said, "There were very plausible allegations made by responsible people that were not followed up sufficiently". I understood you to mean that the complaints were made by responsible people, not to responsible people; am I wrong?
A. That's my hypothesis, yes, that's what I was talking about, these were reasonable complaints which were dealt with very poorly.

Q. In addition, there was a tendency to seek to protect the reputation of the church and its assets in the response to these allegations?
A. At that stage, the instinct was more to protect the institution, the community of the church from shame. I'm not sure at that stage there was too much concern about protecting assets.

Q. That became an issue later on?
A. It did.

Q. The tendency also at that time was not to report to civil authorities?
A. I think that is the case, although there were a number of such cases reported to the police, but the general community attitudes were different, within the police, within the government service, within the Catholic Church, were different from what they are now.

Q. So, is it the case that there was a tendency within the church not to report allegations to the police at that time?
A. That was, I think, the general practice. That is different from saying that people were prevented or impeded, but they certainly were rarely encouraged.

Q. There was also a belief among some at that time that offenders could be treated?
A. Yes, that's certainly true.

Q. And that the sexual abuse of children was largely seen as a moral sin or failing, rather than a crime?
A. Well, that's a different thought from your previous thought. It certainly in every age remains as a moral failure and as a sin, it is also a crime, and one element
that contributed to the catastrophic treatment, it was well intended, but there was an overestimate of what could be done through psychological and psychiatric treatment.

Q. You were aware at the time that from time to time priests who were believed by the Bishop to have been offending were referred off for treatment?
A. You would have to be specific about who and when, because people could go off for treatment for a whole variety of purposes and sometimes the most important reason was not mentioned, and in many cases not reasonably suspected.

Q. Well, it's the case, isn't it, that you were aware during the 1970s and early 1980s, that the Bishop was sending Ridsdale off for treatment for sexual offending against children?
A. No, that's certainly not correct.

Q. Was there any other priest that you were aware of in the 1970s and early 1980s who were sent off for treatment by Bishop Mulkearns for believed or perceived sexual offending?
A. I wasn't aware of Mulkearns sending anyone off for sexual offending.

Q. Sexual offending of any type?
A. Well, an offence is, I presume, something against the law. If a priest is engaging in sexual behaviour, either heterosexually or homosexually, that's incompatible with his continuing as a priest, and it's possible that people were sent off - but once again, I'd have to hear who or what, say, to reply specifically. If the person is repentant and the repentance is very real, the Bishop would - if you judge that to be real, there was a real purpose of amendment, that they would get spiritual counselling and psychological help to ascertain, to help them continue to do the right thing and to ascertain whether that was likely.

THE CHAIR: Q. Cardinal, all that counsel is asking you for are the names of any priest you can remember who were sent off for treatment by Bishop Mulkearns, that's all. You are just being asked for any name you can remember.
A. It was long after I'd gone from the Diocese, but Ridsdale was sent off for such treatment to the United States.
MS FURNESS: Q. Is he the only priest you can recall being sent off for treatment by Bishop Mulkearns for matters of a sexual nature?
A. I think that's the case.

Q. What about Paul David Ryan?
A. I'm not sure that Ryan was - I'm not well versed on Ryan. I didn't have much to do with his story. He did do studies in the United States, I believe, but I don't think they had anything to do with therapy.

Q. Is the answer to my question, that you don't know of Paul David Ryan being sent off for treatment by Bishop Mulkearns for matters of a sexual nature?
A. I don't have any clear such recollection. I certainly never heard that he was being helped because he was a paedophile. He might have had other --

Q. What about - I'm sorry, Cardinal, I interrupted you. "He might have had other"?
A. He might have had other problems which are problems for a Catholic priest, but I'm not quite sure what years we're talking about here.

Q. We're talking about the period that you were at Ballarat, 1971 until about 1984.
A. I was seeking to find out the years in which Ryan did his studies or was ordained or prepared.

Q. Ryan was --

Q. Ryan was ordained in about 1976 and he was sent off to Washington in about 1977. I'm sure those were --
A. Thank you for that, thank you.

Q. You referred to him "might have had other problems which are problems for a Catholic priest". Now, consensual adult sexual relations would fall within that category, wouldn't they?
A. Yes.

Q. Whether it be with a man or a woman?
A. That's correct.
information about Paul David Ryan being sent off for

Q. Why not?
A. Because of that style, but we can't - I didn't have to

Q. But what is your recollection? What do you recall?
A. I can't clearly recall him being sent off for that

Q. Do you mean, you can --
A. He very well might have been.

Q. I see, and your recollection is that he might have
been?
A. Well, you seem to be inferring that, and I don't want
to rule it out because my level of recall is not sufficient
to rule it out.

THE CHAIR: Very well.

MS FURNESS: Q. Continuing with comments that you have
made in respect of your time at Ballarat, I think that you
have been in the past critical of Bishop Mulkearns in
relation to destroying documents; that's right?
A. That's unacceptable. The destruction of documents is
unacceptable.

Q. You discovered that he had done so in relatively
recent times?
A. I think it was in preparing for the Victorian
Parliamentary Commission.
Q. Are you critical for any other aspect of Bishop Mulkearns' conduct?
A. I have just re-read the file of Ridsdale, the priest, ex-priest, and the way he was dealt with was a catastrophe, a catastrophe for the victims and a catastrophe for the church. If effective action had been taken earlier, an enormous amount of suffering would have been avoided.

Q. What was it about the way he dealt with Ridsdale that was catastrophic?
A. He shifted - gave him chance after chance after chance, shifted him around, and initially at least trusted excessively in the possible benefits of psychological help. But even there, we now know that Ridsdale, I think in at least one case, was being treated for anxiety, not to help him with his paedophilia.

Q. He was anxious because he was going to be charged in relation to his paedophilia, wasn't he?
A. So the records show.

Q. You know that there were others, that is, others in the church in the Diocese, at the time that Ridsdale was, as you say, being shifted around, who knew about his offending; you know that now, don't you?
A. I now know that. I do.

Q. Did you know it at the time?
A. I did not know it at the time.

Q. You didn't know of anyone else in the hierarchy of the church who knew about Ridsdale's offending in the time that you were there, that is, 1971-1984?
A. I did not know that Mulkearns knew, let alone anybody else.

Q. We'll come back to the detail of that. Leaving aside Ridsdale, are there any other criticisms that you now have of the way in which Bishop Mulkearns conducted himself?
A. I think there was something of a pattern similar to what he used on Ridsdale with some others, and I'm just trying to think - well, Ryan would be one such example.

Q. Any others?
A. I can't - I couldn't give book, chapter and verse about what Mulkearns knew and did not act upon at a
particular time. I'm aware of the list of offenders.

Q. Would you consider it appropriate for the judicial tribunal to consider the case of Bishop Mulkearns?
A. Yes, there would certainly be a prima facie case, yes.

Q. Are you in a position to put forward a name to that tribunal?
A. As a Vatican official, that probably would be less than appropriate; that should come from the Australian - or present Australian authorities if they choose to do so.

Q. Would you be minded to speak to those present Australian authorities to tell them your view?
A. If I was asked for my view, I would give it, as I have to you.

Q. Cardinal, turning to the other position that you held, and that was - this is before you went to Melbourne - the Corpus Christi position; you were, I think, director of the seminary?
A. It’s called rector; I was, yes, the leader, the head, director of the Corpus Christi Seminary.

Q. That was a regional seminary, wasn't it, it took people from a number of different areas?
A. From Victoria and Tasmania.

Q. Where was it based?
A. I'm having a senior moment - Clayton at that stage.

Q. You'd be aware that the Royal Commission is interested in matters of formation; you understand that?
A. I hope so.

Q. And it may well have been that you've been asked questions about this in the past, Cardinal, but what was your view at the time you were rector of the way in which the formation processes operated in your seminary?
A. In terms of dealing with psychosexual development, they represented an enormous advance on the almost total silence on these matters in my education. On the staff there we had a man who was a graduate of an institute here in Rome called The Ruler Institute which was developed specially to train formators, give them understanding, the understandings of the Christian ideas of morality, the psychology and sociology.
Q. So that training was provided under you, as rector, for those seminarians who went through between 1985-1987?
A. That was certainly true.

Q. In more recent times, particularly when you were Archbishop of both Melbourne and Sydney, have you considered ways to improve the formation processes from the 1980s?
A. I was consistently doing that as Archbishop, and I was very pleased, when I was Archbishop of Sydney in our seminary, to be able to appoint an American nun, a very wise woman who had a PhD in psychology from the United States and has proved to be very effective in helping the seminarians. Many young people in our society today are bruised by their upbringing, this brings suffering, tensions, and a qualified person such as this Sister and outside experts to whom they can be referred has proved to be an enormous help.

Q. Is there any national approach in Australia to matters of formation that you're aware of?
A. I'm not sure that we have an explicit national policy, but there is a - the guidelines are written out very clearly in a document that came from a synod in 1990 on the preparation of priests, it's called Pastores Dabo Vobis, and it outlines there the four main areas of development, and one of them is certainly this personal psychosexual personality development which is so crucial to the work of a priest.

Q. Cardinal, you say that's a 1990 document. There's been no advances in thinking about formation in the last 26 years that have been captured in more recent documents?
A. I'm trying to think. There would be a succession of teachings from the congregation that looks after the - I think it's now the Congregation for the Clergy, they're talking about these matters - but the essential template still remains that 1990 document and I'm quite happy about that.

Q. You're quite happy --
A. There's room within that for refinements and improvements.

Q. Does the Bishops Conference, the Australian Catholic Bishops Conference, have a role to play in determining or
disseminating guidelines about formation?
A. Yes, I think they do. I think there is; it comes under the purview of one of the episcopal sub-committees.

Q. Cardinal, can I come back to your work as a priest in the Diocese. I think, from July 1971 to January 1973, you were assistant priest at Swan Hill?
A. Yes.

Q. And that was your first appointment after ordination with some study in between?
A. That is correct.

Q. From part of that time, I think from July 1971 to 1972, you lived with Father Melican in Swan Hill?
A. I did.

Q. Was he an assistant priest or was he the parish priest?
A. No, he was the parish priest.

Q. You lived in a presbytery with him?
A. Yes, I did.

Q. And there was just the two of you?
A. No, I think there was another - there was another assistant also.

Q. Do you remember who that was?
A. I think it was Peter Brennan.

Q. You obviously shared meals and the like in the presbytery?
A. I did. Father Melican was a great help to me, a very good parish priest, very congenial company.

Q. I take it, given it was your first appointment, you looked to Father Melican for advice and assistance about how to operate in the parish?
A. Yes, I think that's true.

Q. You would talk about various parishioners and the like to understand their problems and what you could do to help?
A. Well, in a general way, we would, respecting the confidentiality and the rights of the individuals concerned.
Q. I think you were subsequently a Consultor with Father Melican too, from about 1977-1982; does that sound right?
A. That does.

Q. Prior to Father Melican being the parish priest at Swan Hill, he was the assistant priest at Mildura from 1968-1971; do you remember that?
A. I don't remember that, but I don't doubt it.

Q. Mildura was one parish removed from Swan Hill?
A. It's 200 kilometres away.

Q. But they're parishes which adjoin each other?
A. No, I don't think they do. I think there's at least Robinvale Parish in between, at least.

Q. Thank you. Father Day was the parish priest at Mildura from 1956 till January 1972; you remember that?
A. He was. Well, I wasn't there, but I'm aware of that.

Q. And Father Melican was assistant priest to him for some of that time?
A. Yes, you've told me that and I hadn't recalled that.

Q. When you were in Swan Hill, did you know a Father Peter Taffe, who was the assistant priest at Mildura?
A. Yes.

Q. You knew him?
A. I did, yes.

Q. Was it the case that from time to time priests in the same general area socialised together?
A. That is correct.

Q. Do you remember a Father Baldock?
A. I do, Gerry Baldock.

Q. And you remember him from that time?
A. I don't know whether he was in that part of the Diocese in that time; he might have been. I don't remember that.

Q. He may have been working in the vicinity of the Mildura area; does that help you remember?
A. Yes, that may be true.
Q. Dan Torpy, Father Dan Torpy, did you know him?
A. Yes, I certainly - he was the gentleman I mentioned as being on the seminary staff with me, he was some years behind me in the seminary and in Rome.

Q. He, I think, was an assistant priest at Mildura around this time; does that fit with your recollection?
A. I didn't have any such recollection, but I don't doubt it.

Q. In Swan Hill, did you have anything to do with the schools that operated in the Mildura area?
A. No.

Q. There was a St Joseph's College; does that ring a bell?
A. In Mildura?

Q. Yes?
A. Yes, I've heard of that.

Q. And a Sacred Heart College, you would have heard of that as well, I take it?
A. Yes, I wasn't aware there was - I presume it's a boys' and a girls' school, I might have been tempted to think there was one.

Q. When did you first encounter Monsignor John Day?
A. I'm battling to remember whether I've ever encountered him. If I did so, it was very rarely; if you mean by "encounter", that I met him.

Q. Did you do anything else with him other than meet him that you can recall?
A. Not that I can recall.

Q. You did meet him, but rarely; is that your answer?
A. I would certainly agree that it was rarely, and I can't give you a time and a place where I did meet him.

Q. When did you first hear about Monsignor Day - rumour, gossip or innuendo or complaints - about his sexual behaviour with children?
A. Well, I only came home to Australia, I think after Easter in 1971, and I was aware of the publicity around Monsignor Day, I believe that was 1972.
Q. Between mid-1971 when you came back and you were in Swan Hill and 1972, did you hear any rumour, gossip, innuendo or the like about him?
A. Yes, there could have - I probably heard some discussion and gossip.

Q. Can you help us now with the subject matter of that discussion and gossip?
A. No, I can't, except to say he was accused of some sort of paedophilia activity. I must say, in those days, if a priest denied such activity, I was very strongly inclined to accept the denial.

Q. So, is it the case between mid-1971, when you took up your position in Swan Hill, and 1972, you heard gossip in relation to him and paedophile activity?
A. This is over 40 years ago, I have had almost no close connection with Day; I can't remember exactly what I heard when.

Q. You said, when I asked you to help us with the subject matter of that discussion and gossip, that he was accused of some sort of paedophilia activity; so you clearly have a recollection of that?
A. Yes, that was the gossip topic.

Q. And that, you were strongly inclined to accept his denial, and I take it that you heard of his denial?
A. That is correct.

Q. I appreciate the period of time that's passed, Cardinal, but it's quite a remarkable thing to have heard about a fellow priest in 1971, isn't it?
A. That was a great scandal.

Q. And that's partly why you have a recollection of it, because it was a great scandal?
A. That is correct.

Q. The scandal you're referring to, I take it, occurred after you first heard gossip?
A. Yes, certainly. I wasn't around.

Q. Well, you were around --
A. I wasn't in Australia.

Q. You were in Australia - sorry, Cardinal, I didn't mean
1 to interrupt you. You were in Australia from July 1971
2 to January 1973 at Swan Hill.
3 A. Yes.
4
5 Q. The period of time you're speaking about is a period
6 that you were resident at Swan Hill?
7 A. That's correct.
8
9 Q. Is it likely that the gossip you heard came from
10 fellow priests or assistant priests?
11 A. Yes, that is - that's a likelihood, that's certainly
12 likely.
13
14 Q. You were quoted in a paper, and I say, Cardinal Pell,
15 I don't accept that that means that you said it, but you
16 were certainly quoted in a paper in 2002 of saying that you
17 heard some gossip about Day in the 1970s which was fiercely
18 rejected by many. Now, if you don't remember speaking to
19 the newspaper, do you remember having that view?
20 A. Yes, and that is certainly true, he had a strong body
21 of supporters.
22
23 Q. And the strong body of supporters came from
24 parishioners, other priests, others?
25 A. Mainly parishioners. One such view that was quite
26 influential with myself was of a wonderful woman in Mildura
27 whom I knew who insisted that he was innocent and I
28 remember being impressed by that.
29
30 Q. So, I take it then, you talked to other people about
31 the gossip about Day, including this woman?
32 A. Not regularly, not incessantly, but it was a topic of
33 conversation.
34
35 Q. Was it a topic of conversation before the article in
36 the newspaper or before? I'm sure you understand the
37 article I'm referring to?
38 A. What was the date of that article?
39
40 Q. It was in 1972. No, I'm sorry --
41 A. I couldn't be --
42
43 Q. I'm sorry, Cardinal, let me just be clear about that.
44 The article that I'm referring to is a 1972 article,
45 13 August 1972. You understand the article I'm referring
46 to?
47 A. I do, yes. I can't remember whether it was Mildura or
Melbourne, but I remember seeing some such article, and I can't recall whether I heard about this controversy, these incidents, before or after that article.

Q. But there was clearly gossip among those in the priesthood and those in the community about Day either before or after that article?
A. There was discussion in the Catholic community and more widely around Mildura, that's for sure.

MR DUGGAN: Your Honour, so there's no confusion, if the witness can be shown the article that is being referred to? It is in the Day tender bundle.

MS FURNESS: I'll come to the article.

Q. Can I first show you what's tab 5 in the Day bundle. It's the statements bundle, tab 5. The document on the screen is from the tender bundle rather than the statement bundle.

Do you have it now, Cardinal?
A. No, I have no documents and I have no recollection of ever seeing such a document.

Q. Well, it's a statement I want to take you to, Cardinal.

MS FURNESS: Your Honour, I note the time. It might be convenient and perhaps those assisting the Cardinal can find the statement in the meantime.

THE CHAIR: Very well, we'll take the short adjournment.

SHORT ADJOURNMENT

THE CHAIR: Yes, Ms Furness.

MS FURNESS: Thank you, Your Honour.

Q. Cardinal, do you have Mr Baldock's or Father Baldock's statement in front of you? Can you hear me, Cardinal?
A. Good morning.

Q. You can hear me?
A. Thank you. Yes, I can.
Q. Have you Gerald Baldock's statement in front of you?
A. I do.

Q. Father Baldock refers to being a student at Mildura when Monsignor Day was there; that's in paragraph 5. Do you have that? It's on the first page.
A. Yes.

Q. Then, he never heard of any allegations against Monsignor Day as a child and teenager.
A. Yes.

Q. Turning over to paragraph 8, there's reference there to when he was around 21 or 22, which is 1964 or 1965, there being some pub talk about him but not about paedophilia; do you see that?
A. I do.

Q. Then, in the next paragraph, he says in 1967 or 1968, when he'd been in the seminary for about four years, he started to hear innuendo about Monsignor Day that he had a love for young boys and that he would take them on trips, and he said he heard that from parishioners when he went home to Mildura in the summer.

Stopping there, I think you said that you knew Father Baldock when you were in Swan Hill?
A. Yes, but not just in Swan Hill; I would have - not quite sure when I first met him, but I was aware of him/knew him, I think, when he was a seminarian.

Q. Did he, at any time of your acquaintance with him, tell you about what is set out in paragraph 9?
A. I can't remember him ever doing so.

Q. Did anyone else, to your recollection, tell you anything similar about Monsignor Day, that is, the love for young boys and taking them on trips?
A. Are you mentioning any particular period or at any stage?

Q. At any stage?
A. I hadn't heard of the trips mentioned, I don't recall that.

Q. But you'd heard the love for young boys?
A. Well, I was aware of what was in the papers in 1972
and other general gossip but, more specifically, I can't give any details.

Q. Going down to paragraph 12, he then talks about the period of the summer of 1970 or 1971, that a teacher, Paul David Ryan, said that Monsignor Day had been involved in paedophilia with altar boys. You see that there?
A. I do.

Q. Did you hear that firstly during the time you were in Swan Hill?
A. Yes, I would just remind you, I was overseas from 1963-1971 and never returned in that time, so the first I heard of it was when I came back to Australia and I think in Swan Hill.

Q. When I refer to "the time you were in Swan Hill", I'm referring to July 1971 until you left in, I think, 1973 or late 1972; you understand that?
A. I do.

Q. If I can then ask you again, in relation to paragraph 12, did you hear that during the time you were in Swan Hill?
A. That would be my - I can't - the references to Ryan, I was unaware of, but the general implication was - I did hear that, I think, in 1972.

Q. Going back to paragraph 9, you see that Father Baldock talks about having heard the information from parishioners. Do you see that on the third-last line?
A. I do.

Q. Had you heard, while you were in Swan Hill, information similar to that in paragraph 9 from parishioners?
A. I don't recall it coming from parishioners.

Q. You recall it coming from gossiping with other priests?
A. Well, discussing church life with other priests.

Q. When discussing church life, inevitably that would involve discussing other priests and their work in the parish?
A. Well, you might be discussing their work in the parish, you might be discussing their personality, their
style, could be discussing a whole variety of things.

Q. Including, in this case, the sexual proclivities of Monsignor Day.
A. I very rarely indulged in any such discussions. The points were made to me, I would listen and say - but there wasn't much discussion certainly in our presbytery or in any presbytery in which I lived on these topics.

Q. But there clearly was in relation to Day; you've given evidence to that effect already, Cardinal?
A. I've given evidence that we were aware of the problem, that we talked about it, but it was not gossiped about extensively.

Q. You talked about it; that's right, you talked about it?
A. I've said so.

Q. When you say "it was not gossiped about extensively", you're making a distinction between talking about it and not talking about it extensively; is that how we're to understand that answer?
A. That is correct.

Q. Thank you. Can I ask you to turn in that same bundle in front of you to tab 3.
A. I go from 31 to 64 in my bundle.

Q. Tab 3 should be a statement of John Edward Raymond Howden. Do you have that?
A. No, I do not.

Q. Perhaps those with you can help you.
A. Yes, I think it's coming.

Q. It may be tab 42 in your bundle, I'm told. Do you have that now or is it still coming?
A. It's just arrived.

Q. John Howden took up a teaching position at St Joseph's College, Mildura, in 1969; do you see that in paragraph 3?
A. Yes.

Q. If you move down to paragraph 5, do you see Mr Howden saying that in 1970 he attended the Mildura Workingman's Club for Christmas drinks, when he was confronted by one of
the people who was with him, and that person said to him:

You're a weak kneed bastard, why haven't
you done anything about this criminal?

He didn't remember everything he said, but Mr Howden
says he was told that Monsignor Day had been sexually
abusing kids.

Q. Just stopping there, did you know Mr Howden?
A. I don't think so. I knew a Bowden, I don't think I
knew a Howden.

Q. Did you know a Jack Doherty?
A. No.

Q. This happened about six months before you arrived at
Swan Hill, but did it come to your attention, when you
arrived at Swan Hill, that those in the community were of
the view that Monsignor Day had been sexually abusing
children?
A. Well, I'd remind you that Mildura is about
200 kilometres away. I was not aware of any general - such
general discussions in the Swan Hill community. I can't
remember any lay person mentioning it to me, but they might
have.

Q. Your memory is with priests mentioning it to you?
A. Yes.

Q. Turning over to --
A. The discussion - especially discussion of the
newspaper after - of the newspaper article especially.

Q. But I think you've also indicated before the newspaper
article as well?
A. Not clearly and not definitively but as a possibility.

Q. We'll check the transcript in relation to that,
Cardinal, and if I need to come back to you, I will.

Just over to paragraph 9, this is in August 1971, so
you were in Swan Hill at this time. You can see that
Mr Howden went to see Bishop Mulkearns. He must have been
just recently in the position of Bishop at that time; isn't
that right?
A. Yes, some months.
Q. And then, to paragraph 10, he refers to the mother of a female student coming to see him at college and telling him that Monsignor Day had been harassing her daughter and her daughter’s friends, and then goes on to say that, during a drive with Monsignor Day, he would sit the daughter, or both of them, on his knee and allow them to drive the car while he molested them.
A. I see that.

Q. Is that something that came to your attention, that that was a method he used to molest children?
A. No, I have no such recollection.

Q. Turning down to paragraph 13, do you see there’s reference there to a "Sister Pancratius"?
A. I don’t think I know Sister Pancratius or I don’t think I knew her.

Q. She was the principal at the school at the time; that doesn’t help?
A. No.

Q. The statement then says that:

Sister Pancratius told us [that is Mr Howden and Mr Ryan, who was a police officer] that she knew what Monsignor Day had been up to but she had a dilemma about her vows as a nun.

Just stopping there. This is in 1971 or so, can you help us with what a nun’s vows could have been to have an effect on speaking about Monsignor Day?
A. No, her vows would have in fact no such effect at all.

Q. So, she was mistaken in thinking that her vows as a nun meant she couldn’t talk about Monsignor Day’s misdeeds?
A. That’s correct.

Q. There’s then reference to a group of parents having a meeting and then deciding a delegation would insist on seeing Monsignor Day.
A. Which paragraph is that?

Q. It’s the next paragraph, Cardinal.
A. Yes, I do.
Q. Again, did it come to your attention, this is about five months in when you were at Swan Hill, that there was a group of parents meeting about Day and sending a delegation?
A. No, I've got no such recollection, no such recollection.

Q. At paragraph 17, there's reference there to senior police officers O'Connor and Childs meeting with Mr Howden and Mr Ryan on 28 January 1972. Do you see that?
A. I do.

Q. What Mr Howden records in his statement is those police officers making their own enquiries and being appalled at the situation and the manner in which Monsignor Day had been sexually abusing children, and that they were going to go to Bishop Mulkearns to tell him. Do you see that there?
A. I do.

Q. Did it come to your attention that there was police involvement of Monsignor Day in January 1972?
A. No, I've got no such recollection.

Q. It seems by now, that is, late January 1972, quite a few people seem to know of or had suspicions of Monsignor Day's conduct; isn't that right?
A. Especially people in and around Mildura.

Q. Yes, but also people who you had contact with in Swan Hill; isn't that right?
A. Not many at all. Those long distances mean that people from those different centres don't get together too frequently.

Q. By "different centres", do you mean different parishes?
A. I mean in particular Swan Hill and Mildura.

Q. Why in particular those two areas?
A. Because they're 200 kilometres apart and it's those sorts of distances which make it difficult, so it's not surprising that there was much less gossip in Swan Hill than there was in Mildura.

Q. I'm sorry, I don't understand why the distance has
that effect. Do you mean, the distance had the effect
because the subject matter was Mildura subject matter and
not Swan Hill; is that what you're saying?
A. No, because there wasn't too much contact - well,
that's one matter; but another factor I think is, simply
the lack of contact between the two populations.

Q. If you can turn to what is tab 17 of the tender
bundle, which is a letter of complaint to Bishop Mulkearns.
Has that been put in front of you, Cardinal?
A. Thank you, it has.

Q. This is a letter dated 8 December 1971 to
Bishop Mulkearns, signed by the police officer Denis Ryan
and Mr Howden whose statement I've just taken you to.
A. Yes.

Q. The first paragraph of that letter says:

We the authors of this letter wish to bring
to your notice the behaviour of Monsignor
Day, the parish priest at Mildura.
Approximately two months ago as the result
of a complaint by a parent of one of the
pupils at St Joseph's College ...
investigations by both the undersigned
revealed widespread moral misconduct over a
period of thirteen years.

Then there are various names which have been redacted
of the victims of Monsignor Day.
A. Yes, I see that.

Q. So that tells us, doesn't it, by 8 December 1971, it
was known in the Mildura community that - or believed in
the Mildura community by virtue of Mr Howden and Mr Ryan's
work, that there had been, as described, widespread moral
misconduct over a period of 13 years. That's in
paragraph 1, the second-last line, if we can scroll up on
the screen.
A. No, I can see that.

Q. Cardinal --
A. You can draw no conclusion from this letter about how
many people knew what, apart from the fact that it
obviously wasn't just those two signatories and it wasn't
just Mulkearns.
Q. With respect, Cardinal, there are a number of conclusions, I suggest to you, that can be drawn: firstly, in relation to the seven people who are mentioned in that document as having been abused.
A. I certainly accept that.

Q. The conclusions that the authors drew, of widespread moral misconduct over a period of 13 years, is an alarming conclusion, isn't it?
A. Of course it's alarming.

Q. That Monsignor Day had effectively got away, according to the investigations of these two, with offending for over that period of time.
A. Yes, that's totally unacceptable.

Q. The information that came to your attention was not of the widespread offending; is that right?
A. It's certainly - I think the article spoke of more than one offence, that was certainly clear, but on detail like this, I was - of detail like this, I was totally unaware.

Q. If we can turn to a statement of [BPA]. It's a pseudonym, as you understand, Cardinal.

THE CHAIR: Which tab, Ms Furness?

MS FURNESS: Tab 1 of the statements bundle. I'm told it's also exhibit 28-117, if that helps anyone.

THE WITNESS: Thank you, I think I have [BPA]'s statement in front of me.

MS FURNESS: Q. At paragraph 5, [BPA] refers to having moved to Mildura in 1957.
A. Yes.

Q. Then, if we refer down to paragraph 14, there's reference to "early January 1972 Monsignor Day coming to stay for a couple of days in Melbourne".
A. Yes.

Q. Then there's reference to Monsignor Day sharing a shower with the boys.
A. Yes.
Q. And that her elder son "came out flushed" and "absolutely scarlet". At paragraphs 17-18, it becomes clear from her statement that her son had been abused by Monsignor Day.
A. Yes.

Q. Turning over to the next page, see the heading is, "Speaking to Father Taffe". Is it "Taffe" or "Taffey", Cardinal?
A. He was known amongst his friends as "Taffey", but the correct pronunciation is "Taffe".

Q. She refers there to her husband ringing the Mildura presbytery and speaking to Father Peter Taffe, and being told in paragraph 21 by her husband that:

... Father Taffe's first words were 'I thought he was over all this'.
A. I read that.

Q. I think you've indicated earlier that Father Taffe was the likely source of information to you about Monsignor Day; is that right?
A. I don't think I said any such thing. I said that I knew him and I was friendly with him; I've got no recollection of him giving me information about that, and I might have said that he did, but I would be interested to see the record to see the text.

Q. We'll check that and I will certainly withdraw it if that reflects the transcript. However, you did indicate that it was likely to be a priest who told you about Monsignor Day; do you recall that?
A. I would have discussed the matter with priests, certainly after the appearance of the paper - the paper article, the journal article.

Q. Is it the case that it's likely that Father Taffe was somebody who you discussed the newspaper article with?
A. It's not highly probable because I didn't have much to do with Taffe at all at that stage.

Q. Who else is likely to be the person or people you discussed the newspaper article with?
A. Obviously, the people in the presbytery at Swan Hill.
Q. Just remind us again who you shared the presbytery with at Swan Hill?
A. That's Father Melican and Father Peter Brennan.

Q. Thank you. Father Dan Torpy, or Father Torpy as he was then, has given evidence in a private hearing that, when he was an assistant priest at Mildura, he became aware that a group of Mildura parents had complained to Bishop O'Collins about the activities of Day.

I think you've indicated you knew Father Torpy at this time?
A. I did.

Q. Did Father Torpy tell you any of what I've just read to you from his private hearing?
A. No, I've got no such recollection.

Q. He also said, this is Torpy, that he was told by a parishioner that his child had been in a situation of sexual activity with Monsignor Day. He didn't tell you that?
A. No.

Q. Thank you. If we can turn to tab 35 of what I assume is the tender bundle, do you have that, Cardinal?
A. I do.

Q. You will see that that is a memo from a superintendent of police to the Deputy Commissioner?
A. I do.

Q. There's reference in the first two paragraphs, particularly the first paragraph, about allegations of indecent assault and attempted buggery and gross indecency?
A. I do.

Q. Turning over to page 3, the paragraph at the top of that page tells us that the police officer, the author of the memo, notes that on 27 January they visited Bishop Mulkearns?
A. I do, I see that.

Q. He told them, according to this memo, that the police investigating the allegations against Monsignor Day were satisfied they were without substance.
A. Yes.

Q. Did it come to your attention then that there was a police investigation?
A. No.

Q. In the second paragraph, the police officer then told the Bishop of further allegations and, as a consequence of that, the Monsignor, that is Day, attended Ballarat the following day and then he publicy announced he submitted his resignation. Do you see that there?
A. I see that, yes.

Q. Were you aware that the resignation was preceded by the police telling Bishop Mulkearns of serious further allegations?
A. No.

Q. Bishop Mulkearns lived in Ballarat at this time, I take it?
A. He did.

Q. As an assistant priest in Swan Hill, did you have much to do with him?
A. Not a great deal at all.

Q. Father Madden has given evidence in a public hearing that Bishop Mulkearns told him what the policeman had told Bishop Mulkearns, that is, that there were serious allegations that Monsignor Day had committed sexual offences against children. Stopping there, did you know Father Madden at this time?
A. This is in 1971/1972?

Q. 1972, January 1972?
A. Very hardly at all. I knew who he was, we had never been in the seminary together, so I didn't know him well at all.

Q. If I can show you one second-last document, behind tab 46 of the bundle you have. It's somewhat faint, Cardinal.
A. Very.

Q. It's signed by the Solicitor-General, I think, and it's dated 17 April 1972 and it's a memorandum for the Undersecretary. You can assume that the file he said he
read was in relation to any prosecution of Day, and he
notes that he:

... [agrees] with the opinion expressed
that the evidence is insufficient to
warrant launching prosecutions.

You see that in the first paragraph?
A. Yes.

Q. Coming down to the second-last paragraph he says there:

I trust that the authorities in the church
will realise that the decision not to
prosecute does not come from any conviction
that the allegations are unfounded. Having
regard to the similarities of the various
accounts, there would appear to be little
room for doubt that Day misconducted
himself.

Just stopping there, I take it that you were well
aware at that time that there are many reasons, or were
many reasons, for police not prosecuting a person after an
investigation that related to other than the lack of
evidence?
A. I was aware of no such thing, I had no interest or
knowledge of the pros and cons of when there would or
wouldn't be prosecutions. I was unaware totally of the
existence of this letter.

Q. The proposition that's being put in that letter is,
just because there's no prosecution doesn't mean that
allegations are unfounded. Now, that's a view you would
have been --
A. That --

Q. I'm sorry, Cardinal.
A. I read and understand that.

Q. Is that a view you shared?
A. Well, I think it's quite unusual to me, I'm no expert
in these matters, that if there is massive evidence, why it
wasn't prosecuted. But I understand what he's saying: just
because there's no prosecution you can't conclude that he's
innocent.
Q. Well, he's going a bit further than that, he's saying that it doesn't come from any conviction that the allegations are unfounded, and then he goes further to say:

[There's] ... little room for doubt that Day misconducted himself.

A. Yes, I read and understand that and agree.

Q. You agree that Day misconducted himself, notwithstanding that there was no prosecution; is that what you're saying?
A. Yes.

Q. Because there can be many reasons for a prosecution not continuing, including that the complainant, or the victim, doesn't want to go through the process?
A. Yes, I understand that.

Q. Turning to the council meeting on 14 March, which I think is tab 36 in the same bundle you have.
A. Yes.

Q. You generally recognise this document as a meeting of the Diocesan Council at times when it was handwritten as opposed to typed. The form of it is familiar to you, I take it, Cardinal?
A. It is. I am just wondering whether the Diocesan Council did the same as the Consultors. It appears to be. It wasn't a term that I remember.

Q. I think there's evidence before the Royal Commission that it indeed had the same function. Just looking at who was --
A. Good.

Q. -- present, we have Bishop Mulkearns who presided, Monsignor Gleeson; did you know him?
A. Hardly at all; I met him once or twice.

Q. And then, the very Reverend J Madden; that's the fellow we talked about before?
A. Is that Frank Madden?

Q. Could well be, that could be an "F".
A. I certainly know Frank Madden; I can't place a
J Madden. It might be J F Madden.

Q. It may be J F Madden. And "VG", so he was the Vicar-General at the time?
A. Yes.

Q. Then Monsignor Fiscalini; did you know him?
A. Yes; yes, I did.

Q. Was he a friend of your family at some stage?
A. Yes, he was.

Q. And then, Monsignor McInerney; did you know him?
A. Yes, I did.

Q. He was somebody you knew at this time, in 1972?
A. Yes, yes, he became a good friend.

Q. And Monsignor McMahon?
A. Yes, I did.

Q. Monsignor O'Keefe?
A. Yes, I got to know him later.

Q. Monsignor O'Brien?
A. Yes, I certainly knew him, Monsignor Tom O'Brien, I think.

Q. Can you help us with what's before Father Melican's name? Is that a title you're familiar with? It might be "Dean".

THE CHAIR: We may have lost him.

MS FURNESS: Q. Can you hear me, Cardinal?
A. Dean Melican is possibly an affectation for the parish priest of Swan Hill.

Q. So that's the Dean or Father Melican that you lived in the presbytery with when you were both at Swan Hill?
A. That is correct. That is correct.

Q. And Monsignor McKenzie?
A. Yes, that's right.

Q. Did you know him?
A. I know - yes, yes.
Q. Are these people you knew at the time, or subsequently, or both?
A. A mixture, but I knew just about all of them.

Q. Thank you. If we can scroll up a little, the first paragraph reads:

His Lordship outlined the circumstances which have led to the resignation of Monsignor J Day from the parish of Mildura. The council decided that Monsignor Day be granted 12 months leave of absence from the Diocese on the guaranteed minimum ...

I can't read that last word.

THE CHAIR: "Salary".

THE WITNESS: "Salary".

MS FURNESS: Q. Thank you. Did any of those present at the meeting tell you the circumstances which Bishop Mulkearns told them about which led to the resignation of Monsignor Day?
A. I don't think so. That might have been mentioned subsequent to this famous article.

Q. You don't remember learning about it before the famous article?
A. I don't, but it might have been mentioned. It might have been mentioned after he took the leave. It's over 40 years ago and I can't recall.

Q. If it was mentioned, is it likely that it would have been Father Melican because of your sharing a presbytery?
A. That's certainly one possibility.

Q. Coming to the article, it's at tab 61. Have you seen this recently, Cardinal?
A. I think I did look at it.

Q. We understand that it was published in The Melbourne Observer on 13 August 1972.
A. I thought it could have been a Melbourne paper.

Q. Melbourne papers find their way to Swan Hill, I take
it, and Mildura?
A. Occasionally.

Q. What this paper does is, talks about the police and their investigations and what ultimately happened to those investigations. You understand that from reading the article?
A. Yes.

Q. You had no doubt, when you saw this article, that it was about Day, did you?
A. No, I had no, no doubts.

Q. You think you saw it around the time it was published, August 1972?
A. Yes, not long afterwards and not before.

Q. Well, you wouldn't have seen the article before it was published, would you?
A. That's correct. That's correct.

Q. And you were still at Swan Hill at this stage, weren't you, August 1972?
A. Yes.

Q. Was this the first occasion on which it came to your attention that a priest had been accused of sexual offences against children?
A. It's difficult to answer that absolutely, but it certainly would be one of the first and perhaps the first.

Q. When you say "one of the first", this was in 1972 and it was your first appointment as an assistant priest; that's right?
A. Yes, I can't think of any earlier example.

Q. If there was an earlier example, it's likely to be, I take it, before you were appointed an assistant priest at Swan Hill; is that a reasonable assumption?
A. Absolutely.

Q. When you saw this article around the time it was published, did you put two and two together and come to the view that Monsignor Day left or resigned because of the charges or the investigation by the police?
A. Yes, I thought that was highly probable.
Q. Monsignor Day was later appointed the parish priest of Timboon; where was Timboon?
A. Yes. It's in the western district.

Q. If we can turn to tab 65, these I think are the minutes of the Diocesan Council meeting recording that appointment.
A. Yes.

Q. If you scroll up to the top of that page, if we can have that document on the screen, you'll see that the date was January 1973 and those present were similar, if not the same, as those who were present at the previous meeting I took you to?
A. I do see that.

Q. About three paragraphs down, there's reference to:

That Monsignor Day be appointed parish priest of Timboon.

It was moved by Monsignor McInerney and seconded by Monsignor Fiscalini.
A. Yes.

Q. Cardinal, you know from the documents I've shown you that Bishop Mulkearns received at least one, if not more, delegations or visits from people who told him about allegations against Day?
A. Yes.

Q. And that the police, in particular just shortly before his resignation, told him, in the language that he used to Father Madden, that there were serious allegations against him; you gather that from the documents I've taken you to earlier?
A. Yes, I do, I do.

Q. Can you tell us what your view is, given that history, for Monsignor Day being appointed as a parish priest about a year after he had resigned.
A. In the light of what I know now, and obviously our present basic and appropriate understandings, it's quite unacceptable.

Q. It's unacceptable because it's putting a priest, who is the subject of serious sexual allegations against
children, back into a parish, isn't it?
A. That is correct.

Q. Did it come to your attention that that occurred?
A. Yes, I think I was aware - I was aware of that.

Q. You were aware of it around the time it happened?
A. Or soon after it happened.

Q. Were the circumstances of you becoming aware of it being told by a priest?
A. I think we - I have said I - that I think that's the case. But I - you mean, aware of the appointment at Timboon?

Q. I do, Cardinal?
A. That would be circulated in the Bishop's circular news sheet.

Q. Do you recall reading it in the Bishop's circular news sheet?
A. No, I don't, but I would have.

Q. Did any of the priests who were Consultors in relation to both the meeting at which the circumstances of his resignation were discussed, and where he was appointed at Timboon, talk to you about those events?
A. No. About this move to Timboon, no, I don't think so, and I can't remember other particular conversations about the Mildura activity or about the appointment.

Q. You would be rightly, I suggest, Cardinal, critical of all those who attended the meeting at which the Bishop told them the circumstances of Day's resignation --
A. Yes, I am critical of it.

Q. -- and who attended this meeting and permitted the appointment to go ahead?
A. Yes, I have to agree.

Q. Turning from Monsignor Day to the Christian Brothers, if I can change the topic. Perhaps that folder can be taken away from you, Cardinal.
A. Thank you.

Q. After leaving Swan Hill, you were assistant priest in the Parish of Ballarat East from 1973-1983?
Q. And for all of that time you were Episcopal Vicar for Education?

Q. From, I think, May 1973-1984?
A. I thought it was a little bit later that May, but no doubt you're correct.

Q. You lived in the St Alipius Presbytery?
A. I lived there, yes.

Q. The presbytery, was that next door to the school?
A. Separated by the church.

Q. So it was on the other side of the church?
A. Yes.

Q. Did you have any involvement with St Alipius as part of your role as Episcopal Vicar?
A. St Alipius Parish or St Alipius School?

Q. St Alipius School.
A. Almost nothing.

Q. St Alipius Parish?
A. Well, I lived there and I provided - I usually celebrated three masses every weekend.

Q. I take it that those who attended St Alipius Parish, some of them would have been parents of or children who went to St Alipius School?
A. That is correct.

Q. Was Sister Ambrose the principal of the school at that time?
A. Sister Ann?

Q. Ambrose, A-M-B --
A. There were then two primary schools, a girls' primary school and the Christian Brothers boys' primary school at Ballarat East, and during my time at the East they were merged. I'm struggling to recall just who was Sister Ambrose because I think many of the nuns changed their names.
Q. But you would have known who the principal was of the boys' school at the time?
A. It certainly wasn't Sister Ambrose.

Q. What about Brother Alan Noyes, N-O-Y-E-S; do you know him?
A. No, that doesn't ring a bell either. Could have been but I - and if that is the case, but that doesn't ring a bell.

Q. Monsignor McMahon, I think, lived with you in the presbytery from 1973-1975; is that right?
A. Yes, he died about that time.

Q. Is he the Monsignor McMahon that we saw on the Diocesan Council minutes?
A. He is.

Q. I think Father O'Toole also lived in that presbytery with you over about the same time, 1973-1975?
A. I think he came in 1974, Father O'Toole.

Q. Thank you. The presbytery had rooms for how many priests?
A. Three or four - or three and four.

Q. So there were three or four bedrooms upstairs?
A. There's no upstairs, it's all one level.

Q. So there were three or four bedrooms, together with some parlour or sitting room?
A. There were additions on the back of the old presbytery; the parish priests' quarters, office and bedroom were up the front. There was an extra lounge room or study which I eventually used as my bedroom, and on a wing out the back there were two rooms for priest.

Q. Did you say bedrooms or meeting rooms?
A. No, there was a meeting room where the money was counted for example from the collections, and then when the new wing started, a couple of bedrooms.

Q. So, when parishioners came to visit a priest, where did they sit?
A. Normally, in the front parlour.

Q. During the time you were assistant priest, there were
a number of Brothers who were teaching at St Alipius, which
by the way was a Diocesan school, wasn't it?
A. Technically, but in fact it was run by the Christian
Brothers, and I don't think the parish priests of Ballarat
East had any say in who was principal. I think the
Christian Brothers Order appointed the staff. That's my
understanding, that might be mistaken.

Q. Some of the Brothers who were at the school when you
were assistant priest, Brother Dowlan?
A. Yes, I remember Dowlan, not --

Q. I beg your pardon, I'm sorry, Cardinal; you remember
Dowlan but?
A. But not well. Not extensively, but I certainly knew
him.

Q. Brother Farrell?
A. Yes, less clearly.

Q. Brother Fitzgerald?
A. Yes, I knew Brother Fitzgerald.

Q. And a Brother who we've given a pseudonym to, which
you'll see on your pseudonym list, [CCK]. It's on the
second page, the third-last entry.
A. Yes, I do.

Q. You knew him?
A. I did.

Q. When you were assistant priest from 1973 onwards, did
anyone come to you - by anyone, I mean priest, parishioner,
parent, child - with gossip, innuendo, rumours, complaints
about any of those Brothers?
A. There was talk about the eccentricity of Brother, is
it Fitzgerald?

Q. Yes.
A. But there were no specific accusations.

Q. What was it about the Brother that showed him to be
eccentric?
A. I think he used to - it's alleged he'd - when some of
the boys were leaving he'd give them a kiss. He was very
strange, old-fashioned, but a good teacher; there were
things like that.
Q. At the time, did you see him kissing the children as sexualised behaviour?
A. No, it was common knowledge, and the general conviction was, it was harmless enough.

Q. It was merely showing affection to the children; is that how it was thought?
A. Yes, he was an older man and it was - I remember it being discussed and mentioned to me, and people were aware of it and they weren't insisting that anything be done.

Q. When you say it was discussed and mentioned to you, was that in the context of you being either Episcopal Vicar or assistant priest?
A. That was through parish friends.

Q. So parishioners were talking to you about it?
A. It was mentioned, yes, to me.

Q. Do you know whether those parishioners were parents of children at the school?
A. Yes, one or some of them were.

Q. You said that people were aware of it and they weren't insisting that anything be done; that suggests that there might have been something untoward about it. Was that how it was presented to you?
A. Well, it was certainly unusual, but no-one - not only that they didn't insist, but nobody said "we've got to do something about this".

Q. Given your role as assistant parish priest, there was nothing you could have done about it, was there, him being a Christian Brother?
A. Well, I could have mentioned it to the principal or the parish priest, but I had no jurisdiction in any sense over the Christian Brothers.

Q. But I take it from what you've said, the principal and the parish priests were probably aware of it as well?
A. Yes, I think that's a reasonable assumption.

Q. Can I show you a visitation report that's in tab 43 of a bundle, the Christian Brothers bundle. Are you familiar with visitation reports that the Christian Brothers --
A. Certainly not, no.
Q. Have you seen this one before?
A. No.

Q. You can see the date's 18 July 1973, it's referred to under, "St Patrick's Province Australia", "A visitation report of Ballarat". Can you just assume that this is a document that is produced by a senior Christian Brother after visiting a particular area. You can assume that.
A. I do, I do.

Q. Turning down to page 5, do you see there's reference to "Brother [BWX]"?
A. Yes.

Q. If you go back to your pseudonym list, you will find him on that list.
A. Yes, [BWX].

Q. Can you find him on that list?
A. Yes, I have.

Q. That name's familiar to you?
A. No, I can't recall him at all.

Q. No? Do you see there's ref --
A. Perhaps I should, but I can't just place him.

Q. This is July 1973, so you were at Ballarat East at the time living in the presbytery, weren't you?
A. I was. I had next to nothing to do with the primary school.

Q. Thank you. Do you see, there's reference to:

... the change of [BWX] because of the revelation of a serious act of indiscretion (even misconduct) of which he was guilty with respect to two of the senior boys separately.

Then it goes on to say:
The event had taken place some months previously but had only just been reported to the Superior.
I understand you don't remember Brother [BWX], but did this come to your attention at all?
A. No, never.

Q. When did you first hear of Christian Brothers in Ballarat offending against children?
A. That's a very good question. Perhaps in the early 1970s I heard things about Dowlan.

Q. What did you hear about Dowlan?
A. I heard that there were problems at St Pat's College.

Q. What sort of problems?
A. Unspecified, but harsh discipline and possibly other infractions also.

Q. When you say "possibly other infractions", you mean of a sexual nature?
A. I do.

Q. Who did you hear that from?
A. Once again, it's difficult to recall accurately. I could have heard it from one or two of the students and certainly I think one or two of the priests mentioned that there were problems and some of them believed they were very - because of harsh discipline.

Q. And the problems described to you were problems of a sexual kind with children?
A. None of the activities were described to me, they were just referred to briefly.

Q. But you answered the question of, "When you say possibly other infractions, you mean of a sexual nature?", you agreed with that proposition?
A. Yes, that was a - that's correct.

Q. And it could only have been sexual with children, couldn't it?
A. That's correct, with minors.

Q. When you heard about those problems, did you do anything with that information?
A. It was, they were - it was unspecific, but in fact I did; I mentioned to the school chaplain, a priest whom I greatly respected, I said, "There is talk about problems at St Pat's College with Dowlan", and I said, "Is there any
truth in them?" He said, "Yes, there are problems, certainly discipline problems, but I think the Brothers have got the matter in hand". And in fact, he left at the end of 1974.

Q. Who was the chaplain?
A. Father Brendan Davey.

Q. When you spoke to him, you made it plain, I take it, that the problems you'd heard of included sexual problems with minors?
A. I made nothing plain to him. I told him that I'd heard these rumours and I asked him whether there was anything in them.

Q. And he said there were?
A. He said there were, there was in some way or other, and the Brothers were looking into it.

Q. At that time, did you understand that the principal of St Patrick's had knowledge about the problems?
A. No, I did not - well, I - I mean, if he was dealing about it, he obviously would have, but I hadn't heard of who'd told him or when he'd known or anything like that.

Q. With the students who came to you, do you know whether they had approached the principal or other more senior teachers in the school?
A. My recollection, such as it is, is that, one of the lads said that Dowlan was misbehaving and - no, they didn't say to me they'd gone to the principal or anything like that.

Q. Was the principal, Nangle, at the time?
A. I believe so.

Q. Did you have much to do with him?
A. Eventually, I had a bit to do with him, yes; quite a bit, but that developed slowly over the years.

Q. In what context?
A. Well, I would attend the speech nights, I eventually coached rowing at the school for some years; that was the extent of - they were the primary reasons for being in contact with him.

Q. Did you hear about what happened to Dowlan, if
anything, after those people you've described came to you?
A. I heard he had left, I had no recollection of where he went until I started to prepare for this.

Q. Was it your understanding that he left not long after those problems had emerged?
A. That is my understanding, and I think that is what in fact happened, I think.

Q. Did you draw the conclusion that he left because of the allegations of sexual impropriety with minors?
A. Yes, I didn't know the nature of those, whether they were indiscretions or crimes.

Q. Did his leaving say anything to you about the likelihood those allegations were true?
A. Well, I certainly concluded there must have been - he must have been, at the very minimum, unwise and imprudent, at the very minimum.

Q. That's Brother Dowlan. We've talked about Brother [BWX]; what about the others? There's Brother --
A. Which Brother in particular?

Q. There's Brother [CCK]. It's on the second page, towards the bottom.
A. Yes, certainly.

Q. What did you hear about him?
A. I never heard any allegations against him during my time at Ballarat East, or suggestions or gossip. He was very highly regarded, at least amongst my friends.

MR DUGGAN: Your Honour, can I just interrupt for a moment. I'm not sure whether that "yes, certainly" was a reference to whether he could see the name on the document, but it might be that that could be clarified, because I'd hate for that to be used against --

THE CHAIR: It was the name on the document.

MR DUGGAN: Thank you.

MS FURNESS: Q. You've indicated, in relation to Brother Fitzgerald, there was talk about him kissing boys;
that's right?
A. I do. Yes, I did.

Q. Any other Brother? Brother Farrell, did you hear anything about Brother Farrell?
A. No, I don't recall anything at all. I can't remember Brother Farrell much at all.

Q. Just staying with that visitation report that was on the screen, coming back to the screen. Turning to the last page, the third-last entry is, "St Alipius School, Ballarat East". Have you got that?
A. Yes.

Q. You referred earlier to a time when the boys' and girls' schools combined?
A. Yes.

Q. This seems to be a reflection of your talking to the Brothers about doing that.
A. Yes, that's correct.

Q. Do you know the circumstances in which you had that discussion with the Brothers?
A. We were - the school buildings were old and inadequate. These were the times of the Carmel Report, where for the first time very significant monies were available from the government to the Catholic schools. The educational style of the Christian Brothers was antique and inappropriate, and I thought, as did a lot of other people, that putting the two schools together and doing them up, certainly the type of education available for the boys would be improved.

Q. And you were successful?
A. Yes, I wouldn't say I was successful; I was part of a group of people who combined to bring this about.

Q. If we can have tab 7 of the statements bundle, Father Madden. This is the James Francis Madden that was one of the Consultors at the two meetings I took you to in relation to Day.
A. Yes.

Q. It's since been confirmed, Cardinal, that indeed the Madden who was at that meeting is the Madden you've referred to as knowing.
A. Yes.

Q. As Frank.
A. That is correct.

Q. Coming down to paragraph 8, you will see from the previous paragraph, that he was chaplain to the Christian Brothers in Warrnambool and that Brother [BWX] was a teacher at the college at some stage during that period.

He then, in paragraph 8 refers to:

... passing a group of students about 13 or 14 years old, who were ... bantering amongst themselves ... saying, 'Be careful if [BWX] offers to give you a massage'.

Is that the sort of information that came to you when you were speaking before about problems being raised with you?
A. No, I said there were no problems - I'll just make sure I've got [BWX], I'm still on the - could you just - where is it on the page, [BWX], I just want to make sure I've got the right person?

Q. Certainly. It's halfway on the second page.
A. No, I knew - I know next to nothing about him. I can't remember him.

Q. Leaving aside that it's [BWX], was information of that sort, that is, a warning if a priest or a Father, or a Brother, offers to give you a massage, is that the sort of thing people --
A. Yes, I'd never heard of any massages at Ballarat East, and certainly a warning sign.

Q. Father O'Toole, I think you've indicated you knew; he lived with you for a while at the presbytery, didn't he?
A. He did, he's a good friend.

Q. Father O'Toole has given evidence in a private hearing which was subsequently tendered; if you want the transcript to come up, just ask, Cardinal, and we'll make it available.
A. Good.

Q. He refers to his time at the Ballarat East Presbytery,
and that when he was assistant priest there, parents whose
children were at St Alipius told him of incidents of
sexualised conduct by the Christian Brothers. Now, did he
tell you about that?
A. No, he didn't mention that to me.

Q. Is that consistent with what you heard elsewhere?
A. I don't think I heard anything about the Christian
Brothers at Ballarat East at that stage apart from the talk
about Fitzgerald.

Q. It could well be the case that kissing boys could be
described as sexualised conduct, couldn't it?
A. Yep, certainly. In the reports given to me, it was
done in front of everybody.

Q. So it wasn't hidden?
A. That's the way it was reported to me.

Q. Father O'Toole also gave evidence that the parish
priest of Ballarat East at the time, Monsignor William
McMahon - now, you know him, don't you?
A. I do.

Q. He was on the Consultors Committee on those two
occasions in respect to Monsignor Day; is that right?
A. He was, he was.

Q. Father O'Toole said that Monsignor McMahon told him
that a child's parents had spoken to Monsignor McMahon
about Brother Farrell exposing himself to a child. Did
that come to your attention?
A. No.

Q. Neither O'Toole nor Monsignor McMahon spoke to you
about that?
A. No.

Q. Was exposing one's self a description that was
provided to you when earlier you described problems coming
to your attention.
A. No.

Q. Monsignor O'Toole also gave evidence of having heard
rumours about Brother Fitzgerald taking boys out and going
bike riding and the like and swimming in the nude; did that
come to your attention?
A. Yes, I had heard, at the break-up at the end of the year they did swim naked.

Q. What did you think of that when you heard it?
A. Once again, it was quite common knowledge. Once upon a time in the schools it was not uncommon at all; it was most unusual at that stage for us, but no improprieties were ever alleged to me.

Q. But you would have considered it, wouldn't you, somewhat imprudent of a Brother to do that, even at that time?
A. Certainly, yes.

Q. Father O'Toole said that those rumours, he thought, came from parents who were his parishioners at Ballarat East. Now, did parishioners at Ballarat East tell you about problems with Brothers?
A. No, apart from mentioning Fitzgerald, I don't believe they did.

Q. Now --
A. By way of explanation, I might say I was a full-time academic, I was rarely in the parish during the days, I had Saturday off, and I said three masses in the parish on Sunday, so it wasn't as though I was regularly around the parish and available for parents to talk to me.

Q. Thank you, Cardinal. Cardinal, you'd be aware from data that the Royal Commission has published about, in broad terms, the number of individuals who've made claims against the Christian Brothers for this period of time, that is, 1971 to the late 1970s, in broad terms you're aware of the number of claims?
A. Only in broad terms. I'm aware it was very high.

Q. Yes. If I can take you to a statement of Mr Barlow. Do you have that, Cardinal?
A. Not as yet, not as yet.

Q. I'm sure it's coming. Is that a statement of Timothy John Barlow?
A. It is.

Q. Is that name familiar to you from your time in Ballarat East?
A. No, in fact, it isn't.
Q. You will see, in paragraph 3, he refers to being a boarder in 1973 at St Pat's?
A. I do.

Q. And then, in paragraph 7 over the second page, he refers to "a survival of the fittest environment", and the kids referred to the boys who were being abused as the Brothers' "bum buddies".

Did that term come to your attention?
A. Never heard it.

Q. It certainly suggests sexual abuse, doesn't it?
A. Certainly.

Q. And it certainly suggests that there were a number of children who were, or boys, who were aware of the activities of one or more of the Brothers?
A. Yes.

Q. If I can then turn your attention to a statement by Mr Green, which I think is tab 13 of mine, but perhaps tab 10 of others'. You have it now?
A. I do.

Q. Is that name familiar to you from that time?
A. Not from that time, but from recently.

Q. Do you see at paragraph 6, Mr Green commenced high school at St Pat's in 1973?
A. Yes, that's correct, I read that.

Q. That was a time when you were living in the presbytery at Ballarat East?
A. That is correct.

Q. Turning over to paragraph 12 - now, this is in relation to Dowlan and Mr Green says:

The kids at St Patrick's used to snigger about Dowlan's behaviour and say things like, 'He's touching the kids again'.

Then in paragraph 13 he said:

Everyone in the class knew what was going
on but it was never discussed. We used to say, 'He's [Dowlan's] got him again, he's got him again, he's touching him again'. [Then refers to] it was common knowledge among the students [in his year] that Dowlan was abusing many of the boys at the school.

Is that the sort of information that came to your attention in relation to Brother Dowlan as you've indicated before it came to your attention?

A. No, not so ever - nothing as generalised or as gross as that at all.

Q. By "gross", do you mean touching the kids?
A. Well, yes, and in big numbers and everybody knowing, and so many people being victims.

Q. So, when problems were discussed with you, it was not in terms of numbers but more individual, an individual child, or individual children?
A. No, I don't think there were any names given to me at all. There were fleeting references.

Q. Fleeting references to what?
A. To misbehaviour by Dowlan which I concluded might have been paedophiliac activity.

Q. Just turning down to paragraph 15, Mr Green says there that he:

... [finds] it inconceivable that none of the Brothers, lay teachers, the nurse, or even some of the parents knew about the abuse by Dowlan. It was just so blatantly obvious and every boy in the class knew that their turn was going to come up at some stage.

Stopping there, is it the case that the information you've described that came to you, came to you from a lay teacher?
A. No.

Q. One of the Brothers?
A. No.
Q. A nurse?
A. No.

Q. But I think you've said some of the parents spoke to you?
A. No, I don't think I said the parents spoke to me about Dowlan.

Q. Parents or parishioners?
A. No.

Q. Who spoke to you about Dowlan?
A. It was a St Pat's boy.

Q. Just one?
A. A fellow at the school. Yes, one that I remember.

Q. So there might have been more than one, but you particularly remember that one?
A. I remember one in particular.

Q. Do you remember his name? I'm not asking you to say it at the moment, but do you remember his name?
A. Yes, I do, and he recollected it years later, but I remembered him as a good and honest lad and I didn't think he'd be telling - I couldn't remember the actual incident, but I didn't think he'd be telling lies.

Q. Coming to a document in relation to Mr Ryan, tab 127. Have you been provided with that?
A. Thank you.

Q. That is a letter from J E O'Connor, a chartered loss adjuster; is that the document you have?
A. It is.

Q. Is his name familiar to you from later years, this is 1994, and the work he was doing for the church?
A. The name "O'Connor"?

Q. Yes.
A. No, it's not.

Q. Was it the case that you understood that, in the 1990s when claims were made against either an order or a Diocese, that an investigation of sorts was carried out? You're
 aware of that?
A. Yes, I was aware of that.

Q. And that --
A. Or should have been carried out. That it was carried out or should have been carried out.

Q. And Mr O'Connor, that's not a name familiar to you as the person who frequently carried them out?
A. I'm not sure, what did he - he was an investigator, was he? A loss adjuster.

Q. He carried out investigations.
A. No, I don't think I had much, if anything, to do with him at all.

Q. Scrolling down, this is in relation to [BWG], and if you can look at who [BWG] is.
A. Yes.

Q. Is that name familiar to you?
A. Only as a result of the documentation that was recently presented.

Q. Do you see, on page 2, there's a heading, "Maurice Peter Holloway" - sorry, the next page, which is for some reason page 10 on mine, 0225 at the top.
A. Yes.

Q. Mr Holloway was a teacher at St Pat's from 1972-1982 relevantly. Did you know him at the time he was teaching there?
A. Not much, but the name rings a bell, strikes a cord.

Q. He, on the next page - now, do you see the paragraph further down, beginning, "Later"?
A. Yes.

Q. He says there that:

Later he did recall vaguely [or he says to the loss adjuster] two parents complaining to the principal ... that Brother Ted Dowlan may have been interfering with their sons. Mr Holloway interviewed the ... children ... and passed the information on to Brother Nangle ...
Did that come to your attention, that parents had complained to Brother Nangle in those circumstances?
A. No.

Q. It's referred to there, that it was at the time that Brother Dowlan may have been putting an arm around the children; was that sort of conduct that was brought to your attention, putting an arm around a child or children?
A. No.

Q. No?
A. No, the conduct that was brought to my attention was unspecified, except that it was somehow wrong or untoward.

Q. Turning down that page, and perhaps over to the next page, there's a paragraph headed, "Gerard Ryan", and Mr Ryan was a student at St Pat's from 1974-1979 and was taught by Brother Dowlan.

Then he's recorded as saying that Brother Dowlan had a reputation amongst the boys for being overly affectionate.

Did that come to your attention?
A. No.

Q. What about Brother Dowlan "putting his hands down boys' trousers"?
A. No.

Q. If we can turn to the last page, which is page 0239.
A. The last page of this tab?

Q. Yes, the last page of the tab. There's a "Comments" section there. The first paragraph is:

There is no doubt that Brother Edward Dowlan physically assaulted ... [the relevant person] at St Pat's ... in or about 1973 ...

That's consistent with what you heard about the violence - that might not have been your word, Cardinal - of the Brothers at St Pat's?
A. Yes.
Q. Coming back to that page and scrolling down, there's reference to a sexual molestation by Brother Dowlan prior to the physical assault being committed, and then the conclusion that:

... it would appear likely that such a sexual assault did occur in 1973.

A. Yes.

Q. You didn't receive any specific information about a sexual assault by Brother Dowlan on any individual, did you?

A. No.

Q. Turning to tab 262. This is a reference to allegations that had been made against Brother [CCK]. Now, I think you know who Brother [CCK] is?

A. Yes.

Q. Scrolling a bit further down, it's a denial by [CCK] that he ever touched a boy on the genitals.

Then further goes down to say that:

There was an allegation from Mrs [CCA] which she told to Brother [CCK] that a Brother (apparently Ted Dowlan) was taking pictures of her other boys in the showers at Ballarat.

Stopping there, was that something that came to your attention?

A. No, never.

Q. Did you have anything to do with the Provincial of the relevant section of the Christian Brothers that was responsible for the school?

A. I met him once - a few times. If you could tell me his name and I'll tell you whether it's the one that I'm thinking of. It's just escaped me for the moment.

Q. I'll come back to the name of the Provincial, I think it might have changed over time --

A. Because Provincials change and I might be thinking of someone in a different period.
Q. Perhaps if we could go to tab 9 of the statements bundle.
A. What I have is 1931 at Geelong.

Q. Yes, it's tab 9 of the statements bundle. That's a statement of [BAI]. You will see on the list who [BAI] is. Is that a name that's familiar to you?
A. No. I do know [BAI]. No, it's not.

Q. Take that statement down. There was a St Paul's Technical School that operated in and around Ballarat?
A. Yes.

Q. You're aware of that school?
A. Yes, in Central Ballarat.

Q. Who operated that school; was it a Catholic School?
A. A Catholic Christian Brothers School, Technical School.

Q. If I can take you to tab 175, which should be in the documents. This is again a report from Mr O'Connor, and this is dated 1997, and if we go to page 4, if we scroll down to the heading, "St Paul's Technical School, Ballarat", there's reference there to Brother Scott who was a principal in 1973-1974. Then scrolling down further, there's reference to Brother Scott recalling taking a group of boys to Mount Cole, and Brother Dowlan accompanying them, and when the boys returned to school Brother Scott recalled that there were rumours that Brother Dowlan "had played funny buggers" while on the camp and then he didn't invite him again.

Now, did that come to your attention?
A. No.

Q. Just by reference to the various documents I've taken you to, including statements, Cardinal, it seems, doesn't it, that there was knowledge around Ballarat East about the offending of a number of Brothers; that's right?
A. Yes, there was some knowledge; you've demonstrated that.

Q. The knowledge was held by a range of people: there were students who had the knowledge, you'd agree with that?
A. Some students, yes.
Q. There was --
A. Are we talking about St Pat's College or Ballarat East, or the whole of Ballarat?

Q. We're talking about the Christian Brothers, which is both St Alipius's teachers and St Pat's in the running as well as being teachers?
A. And St Paul's.

Q. And St Paul's. There were some students who knew; that's right?
A. That's correct.

MR DUGGAN: Your Honour, I'd ask Counsel Assisting to be clear about knowledge of what exactly, so there's no mistake about it.

THE CHAIR: I think it's clear, but Ms Furness will make it even clearer.

MR DUGGAN: Thank you, Your Honour.

MS FURNESS: Q. The question was, knowledge about the offending of a number of Brothers; you understand I mean that to be sexual offending, don't you, Cardinal?
A. I do.

Q. And so, there were some students who were aware of it?
A. That is - the evidence shows that.

Q. There are one or more teachers aware of it?
A. The evidence shows that.

Q. There was the principal of the St Paul's Technical School?
A. That's correct.

Q. There was the principal of the St Pat's School, Brother Nangle?
A. Yes, that seems to be so.

Q. There were a number of parents who knew what was going on?
A. Yes, I think the evidence shows there are - some parents certainly knew.

Q. And there's evidence that Bishop Mulkearns was also
aware, isn't there?
A. Of these Christian Brothers matters?

Q. Yes.
A. I don't think you put that to me.

Q. I'll show you the document that's in relation to --
A. I don't intend to dispute it, I just - I couldn't cite it.

Q. Certainly, I'll get you the reference to that. From the material I've taken you to, you'd agree, would you, that the knowledge of the sexual offending by Christian Brothers at St Alipius School and St Pat's School was known by a significant number in the community; would you agree with that?
A. I would agree that it was known to all the people whom you've mentioned and they do constitute a significant number.

Q. Thank you. If I can take you to the principal Brother Nangle's statement, I think it's behind tab 9 of something relevant. He was the principal that you remember from the time you were --
A. Yes, I do.

Q. Do you have that in front of you?
A. I do, thank you.

Q. He refers, in paragraph 15, to his role as Superior of the Ballarat community in 1973-1978, and also his role, further down the page, as the role of headmaster of St Pat's College?
A. That's correct.

Q. He refers, at paragraph 54, to having gone to see Bishop Mulkearns and telling him what had happened. If we can scroll up to paragraph 50 to learn what had happened, he there refers to:

... one of the lay teachers at the college, Peter Farley, came to see me in a very agitated state.

Because he'd seen [BWX], I think you know who [BWX] is, "on his bed with two boarders".
Scrolling down so we've got paragraph 52 on the screen --
A. I'm just making sure that I've got [BWX] correct.

Q. Certainly. Can you find [BWX] on your list?
A. Yes, yes, I have, thank you.

Q. Brother Nangle said he went to Melbourne to see the Provincial, Brother Naughtin; that was the name I think we were both struggling with before, Cardinal?
A. That is correct.

Q. And Brother Naughtin arranged for [BWX] to be taken out of the college, and then further down, paragraph 54, Brother Nangle went to see Bishop Mulkearns and told him what had happened. Do you see that?
A. Yes.

Q. From that statement of Brother Nangle, it's clear, isn't it, that the Provincial at that time, Brother Naughtin, knew of a complaint of sexual misconduct by [BWX]?
A. That is correct.

Q. As did Bishop Mulkearns?
A. That is correct.

Q. Turning to a different topic. Perhaps that volume can be taken away. Turning to Gerald Ridsdale, I think you understand that Gerald Ridsdale was the assistant priest at Mildura from 1964-1966; were you aware of that?
A. Yes. But I would have needed to be reminded of the years.

Q. He was then assistant priest at Swan Hill from 1966-1969?
A. Yes.

Q. So he preceded you, but there was one assistant priest between you and Ridsdale; is that your recollection?
A. In Swan Hill?

Q. Yes.
A. Yes.

Q. Did anything come to your attention when you were in Swan Hill about Father Ridsdale and innuendo, gossip,
rumours, about sexual misconduct with children?
A. No.

Q. No rumours about him at all?
A. No rumours of sexual misconduct.

Q. When did you first come to know Ridsdale?
A. He was ahead of me at school, but years ahead. We never studied together in the same seminary. When I came back to Australia, I would have known him as a brother priest and someone whom I had met previously because we'd both grown up in Ballarat.

Q. So you knew each other's families?
A. No, I didn't know his family; I came to know his brother quite well, who did a lot of work for us at Aquinas.

Q. Was he a builder or something similar?
A. Yes, yes, carpenter.

Q. He, that is Ridsdale, was appointed assistant priest of Ballarat East in January 1972; that was while you were still at Swan Hill?
A. I would have thought he might have gone there earlier, but he was certainly there in 1972.

Q. You came to be assistant priest at Ballarat East in January 1973?
A. I did.

Q. You lived together in the presbytery, from 1973 --
A. Yes --

Q. I beg your pardon.
A. We were there together for nine or 10 months.

Q. Who else lived there with you at the time?
A. Monsignor McMahon, and Bill O'Connell might have been there for one of those two years, Father Bill O'Connell.

Q. Thank you. What about Father O'Toole? He was there for a while too, wasn't he?
A. Yes, he replaced Ridsdale.

Q. Ridsdale was also the chaplain at St Alipius at the time; is that right?
A. At the schools?

Q. Yes.
A. Parish schools?

Q. Yes.
A. So I believe.

Q. In your role as the Vicar for Education, did you have anything to do with the chaplains at the schools?
A. Very little, if anything.

Q. You didn't have any entitlement to question the appointment or otherwise of chaplains?
A. I didn't have any entitlement and I can't remember the issue ever being raised with me. But, once again, I was not the director of education.

Q. When you were at Ballarat East at the St Alipius Presbytery, was it common for boys, altar boys or other boys, to be taken for drives by the assistant priest or parish priest?
A. It wasn't common.

Q. Was there a parish car?
A. Each priest would have a car, or did have a car.

Q. So it wasn't common, but it happened from time to time, that assistant priests or parish priests would drive boys for whatever reason in the car?
A. Perhaps as altar servers, yes.

Q. Was it common at the time for priests or parish priests or assistant priests to take boys away on camps, overnight camps and the like?
A. That was unusual, but I had heard that Ridsdale had done or did do that with groups of boys.

Q. Was he the only one in the presbytery to do that?
A. I believe so.

Q. Did that make it stand out as unusual to you?
A. Yes, unusual, but not improper because I - to the extent I thought about it, I thought with a big group of boys that would prevent wrongdoing, or it was a useful precaution.
Q. So, were you thinking of wrongdoing at this time?
A. No, not particularly. I just thought it would have been imprudent to do otherwise.

Q. And imprudent because, if a priest was one-on-one with a child, there could be an abusive situation; is that why it was imprudent?
A. That is certainly correct, and it was also capable of provoking gossip that might or might not be justified.

Q. You were conscious of this in 1973 because of the experience with Monsignor Day, weren't you?
A. I wouldn't have put the two things necessarily together; I think it was a basic priestly and human prudence, but certainly Day's activities would have been one factor in the background.

Q. If that was, and I think you've said it most likely was, the first occasion on which you knew about a priest sexually misconducting himself with children, it would make you, I take it, alert to the conduct of other priests in your area?
A. That we weren't alert in those ways anything like the way we are alert today.

Q. No, but --
A. Day's behaviour was seen as completely unusual and aberrant.

Q. Do you know whether within the Diocese, after Monsignor Day's conduct became public, that there was any work done by Bishop Mulkearns or those who advised him about trying to determine whether this was aberrant or indeed there was something more to it?
A. I'm not aware of any such activity.

Q. Was it something that was raised at any Consultor meeting you were present at?
A. Well, I wasn't a Consultor until 1977 and --

Q. No, I understand that.
A. -- I don't think the matter was ever raised in the terms in which you are describing it.

Q. I take it, however, that because of the Monsignor Day scandal, child sexual abuse was at least on your radar?
A. It was at least on the radar, that's for sure.
Q. Did you know Father Tom Brophy; he was I think assistant priest at Warrnambool at some stage?
A. I did know Father Tom Brophy.

Q. You did?
A. There are two Fathers Tom Brophys; this is the one who died early on, I think he was at Warrnambool. There's still a Father Tom Brophy in the Diocese.

Q. Thank you. If I can show you tab, what I have as 6, tab 29. I'm sorry, Cardinal, there are so many tender bundles, it's difficult to be precise as to which one. You see that statement on the screen from [BWA]? I beg your pardon, do you have that in front of you?
A. I do.

Q. Now, if you have a look at the list, do you see who [BWA] is?
A. I do.

Q. Do you know that name?
A. No, I don't.

Q. If we can scroll down, you see the heading, "Father Gerald Ridsdale".
A. I do.

Q. He refers to when Ridsdale arrived in Warrnambool, and that Monsignor Fiscalini was the parish priest at the time.
A. I can't see the reference to Fiscalini, but I can see reference - oh, yes, I do.

Q. Do you see that?
A. Yes, I do.

Q. Monsignor Fiscalini was somebody you knew?
A. Yes, he was a Ballarat person, much, much older than myself. He was - it would be overstating it to say he was a family friend, but my mother, who was a very strong Catholic, admired him very much.

Q. You will recall that Monsignor Fiscalini was a Consultor at the time when Monsignor Day's conduct first came up and then secondly when he was moved to Timboon; you remember that?
A. I do.
Q. If we can then look at paragraph 6, [BWA] is telling us that Ridsdale sexually abused him for two years when he was 14 and 15.
A. Yes.

Q. Then, going to paragraph 8, he was the chaplain of the Christian Brothers College at the time.
A. That's right.

Q. Turning down that page, he explains the impact of the assault on him and then, down to paragraph 14, he refers to Father Tom Brophy as a priest in Warrnambool from 1972 to 1974. Does that help you as to which Father Brophy it was?
A. It does. Yes, this man died suddenly some years later, and I see the reference here to the witness's suffering, it's terrible, and he's not alone; there were many others suffered in a similarly terrible way and I deeply regret that.

Q. Just coming over to paragraph 17, he's talking there about Father Brophy arriving at his house. [BWA], as he said:

As was my usual practice, I tried to push him away ... ended up snapping and hit him because he was prying ...

Then at paragraph 18 he then told Father Brophy exactly what Ridsdale had been doing to him.
A. Yes.

Q. Then further down, paragraph 19, he told him that he could give him a dozen names of other children involved. Now, it seems clear from that statement, that Father Brophy was aware of Ridsdale's offending at least in relation to this child and likely in relation to other children?
A. Absolutely.

Q. Then he says that he was told that Monsignor Fiscalini would go to Bishop Mulkearns in Ballarat. Now, this is before the end of 1972; you can understand that from the next paragraph.
A. Mm-hmm. Yes.

Q. At this stage, you were still at Swan Hill; isn't that right?
A. That's correct.

Q. Turning over to paragraph 27, he's then referring to contacting Father Finnigan, and you can assume that this contact was in 1989. Just staying with Father Finnigan, he also was somebody you knew at this time?
A. Yes, I'd known him for many years; he was and is a friend.

Q. There's a reference to Father Torpy - now, that's Dan Torpy who you indicated earlier you were aware of when he was at Mildura?
A. Well, I don't know whether I was aware of him being at Mildura, but I'd known him for a long time and you have since confirmed that he was at Mildura.

Q. When did you understand that Father Torpy, perhaps then Mr Torpy, had taken a role of counselling priests and religious for the church?
A. When he came back from completing his course here in Rome, and I'm not quite sure when that might have been, plus or minus 1980; I'm not sure.

Q. Were you aware, before he came back from completing his course, that there were services available to treat or counsel or in some way engage with offending priests and religious?
A. There wasn't too much in Australia. There were individual priests who either - psychologists, possibly psychiatrists or - I don't think we had any institutions even for alcoholism.

Q. Were you ever in a position to refer a priest or perhaps a religious to treatment of this sort?
A. I'm just trying to think of my time in Sydney and Melbourne if I did refer priests to such an institution. I don't think I did - pardon?

Q. I beg your pardon? I'm sorry, did you hear a sound?
A. I did.

Q. Perhaps if I can just come back to your answer. You said you were trying to think of your time in Sydney and Melbourne and if you did refer priests to such an institution, you don't think you did; is that right?
A. I'd have to take that on notice because we did set up a facility where priests, after they had been dealt with
either through Towards Healing or the Melbourne Response, where they could go for therapy of some sort. We certainly did set up such an institution and it's highly likely that some of the priests who went through the procedures then went onto that.

Q. If I ask you to focus your attention on the period before you became Auxiliary Bishop in Melbourne in 1987, were you in a position to refer a priest or religious to treatment?
A. No, I would have no such capacity.

MS FURNESS: Your Honour, I note the time.

THE CHAIR: Very well, Cardinal, we'll adjourn now until the same time tomorrow.

AT 11.55 AM THE COMMISSION WAS ADJOURNED TO TUESDAY, 1 MARCH 2016