

**ROYAL COMMISSION INTO INSTITUTIONAL
RESPONSES TO CHILD SEXUAL ABUSE**

**Public Hearing - Case Study 29
(Day 149)**

Level 17, Governor Macquarie Tower
Farrer Place, Sydney

On Wednesday, 29 July 2015 at 10am

Before
The Chair: Justice Peter McClellan AM
Commissioner: Professor Helen Milroy

Counsel Assisting: Mr Angus Stewart SC

1 THE CHAIR: Mr Stewart, I just need to indicate that the
2 Commission will not be sitting tomorrow. There are some
3 circumstances that make it unavoidable, but we will resume
4 again after today on Friday.

5
6 MR STEWART: As your Honour pleases. Mr Ali was in the
7 witness box.

8
9 <DINO ALI, on former oath: [10.05am]

10
11 <EXAMINATION BY MR STEWART CONTINUING:

12
13 MR STEWART: Q. Mr Ali, I want to deal first with the
14 judicial committee and how the judicial committee dealt
15 with the allegations that had been raised by [BCG].
16 Firstly, as I understand it, you and Mr Bowditch and
17 Mr de Rooy had already formed a judicial committee to deal
18 with unrelated allegations; is that right?

19 A. Yes.

20
21 Q. They were allegations, briefly put, to do with [BCG]'s
22 father's relationship or possible relationship with another
23 woman, not his wife; is that right?

24 A. That's correct.

25
26 Q. Then, when these allegations of [BCG] were brought to
27 the elders, you then dealt with them in the same judicial
28 committee; is that right?

29 A. The same members of the judicial committee, yes.

30
31 Q. So you didn't have an independent investigation first
32 and then decide to form a judicial committee; you just
33 subsumed them into the discussions and investigation you
34 were already doing; is that right?

35 A. I know it followed fairly closely, but I'm not sure of
36 the time element there, no, but it was tied in pretty much
37 together, mmm.

38
39 Q. Well, that's right, isn't it, that in the meetings
40 that you had with various people who were involved, or had
41 an interest, or were witnesses, you discussed these matters
42 together; in other words, the question of [BCG]'s father's
43 relationship with another woman as well as [BCG]'s
44 allegations?

45 A. That, I believe, came at the end, later, after we had
46 dealt with the father.

47

1 Q. I will show you some notes in a minute. We will come
2 to that. But let's get it clear what you mean. Do you
3 mean to say you had dealt with the other allegations and
4 made a finding on them and then, only thereafter, you dealt
5 with [BCG]'s allegations?

6 A. Yes, yes, followed through, yes.

7

8 Q. I think your memory may be failing you on that,
9 Mr Ali. In that regard, I will refer you to tab 3 of the
10 tender bundle. Do you see this is the report of your
11 judicial committee. If we can scroll down, do you see the
12 names at the bottom. This was the report, where your
13 finding was on the last line there: Loose conduct and
14 lying and the brother was disfellowshipped. Do you see
15 that?

16 A. Yes.

17

18 Q. At the time that [BCG] raised her allegations and you
19 dealt with them, her father was not disfellowshipped?

20 A. Not on those allegations, but on what we dealt with
21 him of an immoral course that he had taken against - with
22 his wife. That's the founding or the finding that we had,
23 that we referred to on that loose conduct, lying.

24

25 Q. I see that. But at the time you dealt with [BCG]'s
26 allegations, you had not yet disfellowshipped the father;
27 is that right?

28 A. We had taken the steps of announcing that
29 disfellowshipping. We had completed that sitting with him
30 and decided that he needs to be disfellowshipped for what
31 he did.

32

33 Q. Well, if he had already been disfellowshipped, why
34 were you investigating further allegations against him?

35 A. The - what came through after that, they have - the
36 person who has this loose conduct and lying and was
37 referred to disfellowshipping had seven days to appeal. If
38 he wanted others to hear his case against what we had
39 decided, then a further committee could be made available
40 to follow through. So there was at least seven days before
41 we could announce that he was disfellowshipped, that he
42 acted in that way of saying, "I would like another
43 committee to sit in and hear my situation."

44

45 Q. Let's just straighten out the chronology. Take a look
46 at tab 4. Do you see this is a memo addressed to
47 Ron de Rooy, Kevin Bowditch and Dino Ali; do you see that

1 at the top left?
2 A. I do.
3
4 Q. It is headed "Appeal - on basis of repentance", and it
5 says:
6
7 *Dear Brothers, I wish to appeal ...*
8
9 And then it goes on and it is difficult to read, but at the
10 end you will see that it is signed by [BCH] - that's
11 [BCG]'s father, at the foot of the page - and you will see
12 it is dated 19 July 1989?
13 A. Mmm-hmm.
14
15 Q. Do you accept he appealed on that date?
16 A. That's what the appeal was - that's what he appealed,
17 yes, on that basis.
18
19 Q. So your decision to disfellowship him obviously
20 preceded that?
21 A. Yes.
22
23 Q. It was on that day or it was before that day?
24 A. Yes.
25
26 Q. Now, if we go back to tab 3, and if we go to the top
27 of the page, it is actually undated except for a date stamp
28 that says "SD 7 AUG 1989"; do you know how that stamp came
29 to be applied there?
30 A. No, not sure.
31
32 Q. That would suggest it was the service desk that
33 received that on 7 August 1989?
34 A. Okay.
35
36 Q. If we go to tab 5, you will see this is the decision
37 of the appeal. Do you recognise the names of the appeal
38 committee there, Messrs Bennett, Wilson and Miraziz?
39 A. I do.
40
41 Q. That's dated 23 July 1989?
42 A. Yes.
43
44 Q. There is a stamp "SD 7 AUG 1989" at the top of that
45 page as well?
46 A. Yes.
47

1 Q. I take it, again, you don't know how that came there,
2 but it looks like it may have been the service desk?
3 A. I assume so.
4
5 Q. I would like to show you some handwritten notes.
6 I must just caution you - I understand you have been given
7 a copy of some handwritten notes that have been redacted
8 but with pseudonyms inserted where the redactions are; is
9 that right?
10 A. Yes.
11
12 Q. Is that what you have?
13 A. I have, yes.
14
15 Q. What I have handed up, and which has also been given
16 to my learned friends, as I understand, are some
17 handwritten or manuscript notes, as well as a best effort
18 to transcribe those notes and type them out.
19
20 Q. Firstly, Mr Ali, are these notes yours - in other
21 words, they are in your handwriting, are they?
22 A. They appear to be so, yes.
23
24 Q. In fact, you gave evidence about these notes in one or
25 other of the criminal trials; is that right?
26 A. I can't remember, but I was there and I think that was
27 the case, yes.
28
29 Q. You will see that these notes appear to be torn from
30 a notebook with a spiral binder - do you see that?
31 A. Yes.
32
33 Q. At the top of the pages, they are numbered in
34 manuscript - 1, 2, 3 and so on; do you see that?
35 A. I do.
36
37 Q. That numbering, is that also your manuscript?
38 A. It appears to be so, yes.
39
40 Q. You will see the notes start, it says "Notes of
41 investigating committee" and it has 1 June 1989; do you see
42 that?
43 A. Is that on the first page?
44
45 Q. On page 1, on the first and second lines. "Notes of
46 investigating committee. 1-6-89"?
47 A. It could be a "5th" or a "6th", the way it is shown to

1 me here.
2
3 Q. Either way, that is fine. If you look at the
4 page which has page 14, it is Ringtail 1494 - do you see
5 that? Now, the next page is actually unnumbered. It is at
6 1495, and at the foot of that page it says "19-7-89 [BCH]
7 appeals, fax to Kevin"; do you see that?
8 A. Is that after page 14, and there is another
9 page without that 15 --
10
11 Q. Yes.
12 A. -- at the bottom of that?
13
14 Q. It is an unnumbered page between 14 and 15.
15 A. Yes, I see that.
16
17 Q. And then equally, after, at the back of page 15, there
18 is an unnumbered page; at the back of page 16, there is an
19 unnumbered page, and so on. So can we take it, Mr Ali,
20 that the pages that precede that unnumbered page on the
21 screen now, which is the back of 14, deal with matters that
22 you dealt with prior to the appeal?
23 A. It's very difficult to read. It's okay to take a
24 little bit of time to look at that?
25
26 Q. Yes.
27 A. I'm not sure, but it possibly could be.
28
29 Q. I will show you, Mr Ali, how it stands to reason. The
30 pages are numbered in order and they are numbered in order
31 by you. That's right?
32 A. Generally, the first pages are seemingly in order.
33 I'm not sure where - I'd probably need a bit more time to
34 sort of peruse through that to make a judgment on that.
35
36 Q. Have a look from page 11, Ringtail 1488.
37 A. Yes.
38
39 Q. You will see that that page, as it is reflected there,
40 has the torn-off part of it at the top of the page?
41 A. Yes.
42
43 Q. Then the next page, which is unnumbered, has the
44 torn-off part at the foot of the page.
45 A. At the bottom?
46
47 Q. Yes.

1 A. Yes.
2
3 Q. You will see, what's more, that those torn-off tabs
4 actually match - do you see that?
5 A. So that - what's on the screen is reflecting what's on
6 the page?
7
8 Q. You just look at the page, if you like, it is easier,
9 Mr Ali.
10 A. Yes.
11
12 Q. If you look at page 11, and then you look at the next
13 page, it is actually the reverse of page 11, isn't it?
14 A. Yes, yes.
15
16 Q. You can see how the tabs match up. Do you see what
17 I mean?
18 A. Yes, I see, at the bottom, the tear?
19
20 Q. Yes.
21 A. Yes.
22
23 Q. Yes, the tear. And page 12, the reverse of page 12 is
24 actually numbered 13A, for some reason.
25 A. I see.
26
27 Q. But you see that it is the reverse of the same page?
28 A. I see, yes. Mmm-hmm.
29
30 Q. And 13 then has the - the page following 13 is the
31 reverse of page 13; do you see that?
32 A. Yes.
33
34 Q. If we go back to earlier in the piece and, in
35 particular, if you take a look at page 4, which is Ringtail
36 1481, in the middle of the page there are two names that
37 are written there, it is [BCG] and [BCI] - that's [BCG]'s
38 mother. Those are underlined twice, those names. Then it
39 has a dash, and it says "Molesting! 4-5 times". Now, what
40 this suggests is that your committee met with [BCG] and her
41 mother; is that right? And below that are the notes, your
42 notes, of what they told you?
43 A. It appears to be so, yes. Yes.
44
45 Q. And then you will see, towards the foot of that page,
46 in the left-hand margin, it has [BCG]'s mother's name
47 written there, [BCI], a colon, a dash, and it says:

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that [BCH] has gone to ...

Something, and it carries on there; do you see that?

A. Yes.

Q. Now, what you have recorded there, next to those dashes, is what [BCG]'s mother told you - not so? Your note of what she told you.

A. I can't remember that.

Q. That's how the note is structured, isn't it? You have got her name, colon, and then you have got a number of points noted down, suggesting that that's what she told you? You seem to be struggling with that?

A. I - no, that's true, but I'm not - I'm trying to ascertain whether the mother was there or whether this was a flow-on from something that came up from - if it was [BCG]. That's the only thing I'm not very sure now.

Q. If you go back to the beginning of the notes, you will see the way in which you have structured them, which stands to reason and is the way anyone else would structure their notes, is you write the name of a person, you underline it, you put a colon and then you make notes of what that person has told you, and it starts on page 1 with a name which is redacted, but I can tell you, I have it in front of me, it is one of the people involved --

THE CHAIR: Do we have the original document?

MR STEWART: We don't have the original. We only have photocopies which we got from the police, but we can show the witness an unredacted copy.

THE CHAIR: I think you should do that. And are there lines on the page above [BCI] in the top third? The photocopy that I have rather suggests that someone's been drawing lines between people who speak.

MR STEWART: There are indeed lines on it. That's on the manuscript page 4.

THE CHAIR: Page 4. And it seems to be the same on 5. There seems to be a pattern of ruling a line across - and the same is true on 6, I think - when you get to a different person and notes being taken. It goes on

1 through the document, as I see this copy, anyway.

2

3 MR STEWART: Q. Do you see that?

4 A. I see what your Honour has been saying, yes.

5

6 Q. So, now, of course this happened a long time ago. You
7 may not have a clear recollection of the actual events, and
8 you can tell us that in a moment, but the important point
9 here is we are asking you to interpret your own notes.

10 Now, the way in which it is structured makes it very clear,
11 I suggest to you, that it is recording that, as you met
12 with different people and they told you things, you have
13 written their name and you have recorded what they have
14 told you. Do you accept that?

15 A. Based on what has been written here, yes, I would
16 accept that, yes.

17

18 Q. And there is no reason to suggest the contrary, is
19 there?

20 A. On the face of that, I wouldn't object to that, no.

21

22 Q. We are getting you an unredacted copy, but we can deal
23 with what's on page 4 in the meantime. Do you have page 4
24 in front of you?

25 A. Yes, yes.

26

27 Q. That's the one on the screen. You will see the last
28 line records "Says [BCH]" - that's [BCG]'s father - "has
29 abused 2 younger children, possibly" - and then it says
30 "[BCK]", that's the oldest daughter, "too, at age 2". Do
31 you see that?

32 A. Yes.

33

34 Q. Now, that's what the mother told you, didn't she?

35 A. Again, I'm not sure that that was the mother. It - it
36 may have been. It may have been, yes.

37

38 Q. And certainly you were told it, if not by the mother,
39 then by [BCG] herself?

40 A. That I can't recall, but if it's in the notes that
41 [BCG] did that --

42

43 Q. Well, the note suggests very clearly that it was the
44 mother who told you that, because you've got the mother's
45 name, colon, and then you jot down a few points that she
46 made, apparently, and then it has a dash, being a new one:

47

1 A. Yes.

2

3 Q. This was your judicial committee, prior to the appeal
4 committee?

5 A. It appears that way, yes.

6

7 Q. Then, if you look at page 8, you will see, on the
8 sixth line, where it is indented, it says:

9

10 *She does not like what her dad is doing*
11 *with ...*

12

13 and it has a redacted name that's the other woman, and:

14

15 *commendably, when pulled up before*
16 *[REDACTED] by ... [the father] to deny*
17 *charge of molestation to [the eldest*
18 *daughter] [BCK] she insisted on the truth*
19 *despite ... [the father's] efforts to the*
20 *contrary.*

21

22 Do you see that?

23

A. I do.

24

25 Q. The "she" that's referred to, you will see, is the
26 eldest daughter herself, if we go to the previous page,
27 page 7, right at the foot of the page. You can see the
28 page there, down the left-hand side there are a couple of
29 bits that are underlined, and near the middle of the
30 page it says "Next day", and then three lines below that it
31 says "That night", and then right at the foot of the page,
32 it says:

33

34 *Same night, we visit [BCK] [the eldest*
35 *daughter] for some talk on Watchtower*
36 *articles.*

37

38 And then it says "over". And when one goes over the
39 page it carries on. What it records here, does it not, is
40 again the eldest daughter confirming that she herself had
41 been abused by her father?

42

A. It does, yes. Is that - your reference is to the
43 second line?

44

45 Q. The second indented line - second and third. I beg
46 your pardon, third and fourth, "Deny charge" - well, one
47 really has to read it as a sentence:

1
2 *She [the eldest daughter] does not like*
3 *what her dad is doing with [the other*
4 *woman] and commendably, when pulled up*
5 *before [the other woman] by [the father] to*
6 *deny charge of molestation to [BCK] she*
7 *insisted on the truth despite [the*
8 *father's] efforts to the contrary.*

9
10 A. Yes.

11
12 Q. If you then go to the reverse of page 11, Ringtail
13 1489, perhaps if we can just go to the previous page, you
14 will see at the foot of the previous page there is a date,
15 17 June 1989, "Met with [BCI]" - that's the mother - "and
16 [BCG]". And then over the page:

17
18 *Counsel given on confiding matters of*
19 *family to congregation members - used*
20 *articles and scriptures.*

21
22 *Counsel given to [BCG] also of same matters*
23 *using above articles.*

24
25 *- Also an attitude to mother; encouragement*
26 *also given for her honesty and in seeking*
27 *help ...*

28
29 *Counsel given to [the mother] on her part*
30 *as subjection to [the father] could have*
31 *helped cause separation and consequent*
32 *matters. Used article and scriptures of*
33 *her responsibility - encouragement to help*
34 *family.*

35
36 Then it says:

37
38 *Interesting that both mentioned [the eldest*
39 *daughter] as admitting to another "attempt"*
40 *when going to school at ...*

41
42 And it is unclear. Can you read that, what age that is, at
43 something?

44 A. Probably primary school.

45
46 Q. Well, it has "primary" in brackets. The word before
47 that looks like "age" and before that it looks like it

1 could be "10" - "at" - something crossed out - "10" --
2 A. "Primary" with a question mark, is that what you are
3 referring to?
4
5 Q. Just immediately before the "primary" with the
6 question mark, what are the preceding two words?
7 A. "When going to school at a later age".
8
9 Q. Do you think "at later age"? Okay. "Primary?" "Need
10 to check statement".
11
12 And then:
13
14 *Quest.*
15
16 I take it that means "question".
17 A. Question.
18
19 Q.
20 *Should one be studying with*
21 *younger children - even for short time*
22 *until thing settle?*
23
24 Do you recall, what was that reference?
25 A. I'm not sure.
26
27 Q. And then you see there is an arrow down from where it
28 says "Need to check statement", down to what is then
29 written below that?
30 A. I do, yes.
31
32 Q. And then it says:
33
34 *[The father] took [the eldest daughter's]*
35 *hand to place it on his private parts.*
36 *- she pulled hand away and refused to speak*
37 *with him for some time.*
38
39 So what this is, is a report from the mother and [BCG]
40 about an incident involving the eldest daughter; is that
41 right?
42 A. This - yes, this was during our meeting, it seems,
43 yes.
44
45 Q. Then, finally for now, at page 14 you will see at the
46 foot of the page it is recorded, it has the father's name
47 and then can you read it out - read your handwriting,

1 Mr Ali?

2 A. "[BCH] has admitted" - is that the line?

3

4 Q. Yes.

5 A.

6

7 *[BCH] has admitted to all things and also*
8 *said that whatever [BCG] had said on*
9 *molesting was true.*

10

11 So the father told you and your committee members that he
12 admitted to all things - which you have underlined - and
13 also said that whatever [BCG] had said on molesting was
14 true. That's how it happened, isn't it?

15 A. Is that a question?

16

17 Q. Yes. That is how it happened?

18 A. That's?

19

20 Q. He admitted to your committee?

21 A. Yes, it seems he did.

22

23 Q. And it was only thereafter that you disfellowshipped
24 him, and that was on the other grounds in relation to his
25 relationship with the other woman.

26 A. Yes.

27

28 Q. What did you do with these child abuse allegations
29 that you had received from two daughters directly, and from
30 the mother in respect of the much younger daughters? What
31 did you do with those?

32 A. This was - from my memory, and from the notes - it
33 would be good to read them in an entirety - I believe that
34 at the end of our findings we could only, having dealt with
35 one issue at that time, with him, on the first matter of
36 leaving his wife, the father leaving his wife and going off
37 with another woman, we had to deal with that. From my -
38 what's been brought out here, it would seem that, having
39 done that, he appealed that decision, and it may have
40 been - and one would need to have to see any other notes
41 with the appeals committee, that the other matter then may
42 have been dealt with, but we needed to finalise that
43 particular case against him in what he was doing at that
44 moment.

45

46 THE CHAIR: Q. You told me yesterday that you didn't
47 have corroboration or an admission that enabled you to find

1 the allegations to be proven. That's not right, is it?
2 A. Well, it - on the basis of my notes, that was what was
3 my recollection at that time, yes.
4
5 Q. But that recollection is not correct, is it?
6 A. It appears from the notes that some allegations had
7 been brought out, and that's taken - would need to be
8 taken --
9
10 Q. It was more than allegations brought out. You have,
11 apparently, an admission.
12 A. Well, we still needed to then, in any judicial
13 committee, follow through more thoroughly, because it's --
14
15 Q. What more do you need, if you have an admission?
16 A. He - I believe that on the other notes he may have
17 denied - that he only said that for - to do what he can to
18 get out of that situation. But that's the aspect that we
19 would look at. But in my recollection that beforehand,
20 without the use of the notes, we needed to follow through
21 with substantiating those matters as well.
22
23 MR STEWART: Q. Mr Ali, you had received allegations of
24 extremely serious conduct by a father against four of his
25 daughters. Not so?
26 A. They were allegations, yes.
27
28 Q. Yes, they were allegations. But they were directly
29 from two of the daughters themselves, who by that time were
30 adults, albeit young adults?
31 A. Mmm.
32
33 Q. That's right, isn't it?
34 A. Yes. They - I'm sorry, I - can I ask, again, that
35 last - what you said at the end there?
36
37 Q. Two of the people who reported this abuse to you were
38 themselves the victim of the abuse, and at the time they
39 reported, they were adults?
40 A. Yes, yes.
41
42 Q. They were not very young children?
43 A. You are talking about [BCG] and --
44
45 Q. And her older sister?
46 A. Yes, yes.
47

1 Q. And you then had the mother tell you about what the
2 father had done to the two younger daughters?
3 A. It seems that way, in that - that that's what she may
4 have said.
5
6 Q. And you told us yesterday that you believed [BCG]?
7 A. Yes, yes.
8
9 Q. And you said that you thought she was very courageous?
10 A. Yes.
11
12 Q. And you believed her?
13 A. I stipulate that again.
14
15 Q. Yet you regarded the adultery allegations as being
16 more pressing, to deal with those, than these serious
17 allegations. How can that be?
18 A. Well, I don't think it's quite as simple as ignoring
19 it. We didn't ignore it. It simply was in the process,
20 because we've only taken a day, or two, or whatever -
21 I think the dates look at how long this process took, and
22 it was very, very quick. It did not take months or
23 anything like that. It continued to be dealt with.
24
25 Q. The notes don't bear that out. It started on 1 June -
26 you suggested it might even have been 1 May. By the time
27 you were told by the mother and the sister, from the notes
28 it appears still to be 1 June. And it goes all the way
29 through, and it's only on 19 July that there is an appeal.
30 So your finding on the adultery was on 19 July or shortly
31 before. It took a very considerable time.
32 A. Yes, within that month, but it was still - had not
33 been ignored, I would suggest, from the notes here.
34
35 Q. This man, to your knowledge and belief, on the
36 information you had received, was a danger to young girls,
37 wasn't he?
38 A. Certainly was.
39
40 Q. And what did you do about that to protect young girls
41 in your congregation and worldly young girls?
42 A. Well, in [BCG]'s case, for a start, because we had the
43 charge or accusation made about other children within that
44 family, though that needed to be substantiated, but it was
45 a process of following through, and it was to acquaint even
46 with the innocent parent, following through with what she
47 had to say, what other things could we do to support that.

1
2 In [BCG]'s case, she was taken out of that environment
3 immediately, so the protection was extended to her, because
4 it appeared that I think it was still current or had been
5 current up to that time, that we needed to deal with that.
6 So it was an immediate thing in her case, but it needed
7 time, then, to follow through with the others.
8

9 Q. Let's take a look at your statement. At Ringtail
10 0003, paragraph 5, point 6, at the foot of the
11 page numbered as 6.

12 A. Is this my personal statement?
13

14 Q. Yes, your statement to this Commission dated 10 July.
15 It will come up on the screen in a moment.

16 A. Yes. Could you give me that reference again, please?
17

18 Q. It will come up on the screen for you, but it is on
19 page 3 of your statement, and it is paragraph 5, point 6.
20 You will see you say there:
21

22 *The judicial committee did not feel it had*
23 *clear proof of the allegations of child*
24 *sexual abuse from either party.*
25

26 Now, that's correct, isn't it? You did not feel you had
27 clear proof?

28 A. At that time, no.
29

30 Q. And that's wrong, because you did have ample proof,
31 didn't you?

32 A. Again, we hadn't dealt with that; we did not have
33 clear proof, because it was still on a one-to-one basis.
34

35 Q. Well, that's what you go on to say. You say it was
36 one person's word against another. Do you see that in that
37 statement? But that's not true; it was three people's word
38 against another. It was the eldest daughter, it was the
39 next daughter, [BCG], who was 17 at that time, and it was
40 the mother.

41 A. Mmm-hmm.
42

43 Q. It is false what you have written here, isn't it - it
44 wasn't one person's word against another.

45 A. Again, in making that statement, that's - that was my
46 recollection.
47

1 Q. And then you say:

2

3 *However the committee concluded it had*
4 *a basis for disfellowshipping [BCH] for his*
5 *conduct with [the other woman] and his*
6 *lying.*

7

8 Do you see that?

9

A. Yes.

10

11 Q. So you dealt with them together. You felt that you
12 didn't have sufficient proof on the child sexual abuse
13 allegations but you did on the other allegations - not so?

14

A. Well, we had proof on one instance, which we could act
15 on, and which we did.

16

17 Q. The adultery?

18

A. Yes.

19

20 Q. And notwithstanding the admission made by [BCH], and
21 the evidence of the mother and two elder daughters, you
22 felt you didn't have sufficient proof to act on the child
23 sexual abuse allegation?

24

A. Not at that time, no.

25

26 Q. Let's take a look at your report to Bethel, back to
27 the branch. It's at tab 3. This is the report that you
28 wrote on your judicial committee hearing. It is signed by
29 you at the foot of the page - do you see that?

30

A. Yes.

31

32 Q. I take it you agree with what is written in this
33 report?

34

A. I do.

35

36 Q. That is why you signed it?

37

A. Yes.

38

39 Q. You can take a moment to read it, but there is nothing
40 in there about the child sexual abuse allegations, is
41 there?

42

A. No.

43

44 Q. So you don't even report to the branch that the
45 allegations were made?

46

A. No, we don't - we didn't.

47

1 Q. That, even under your own procedure, is a very serious
2 omission, isn't it?
3 A. It would appear so, yes.
4
5 Q. Because very serious allegations are being made
6 against someone, and even if they are not accepted by the
7 judicial committee, because it is one person's word against
8 another, they are supposed to be reported, in case other
9 allegations are made in the future or other similar
10 allegations have been made in the past - that's what is
11 supposed to happen, isn't it?
12 A. No, I - I think that the recent guidelines - not the
13 recent ones, but the guidelines that we had at that time
14 did not suggest that we report that to the branch. That
15 came, I think, more prominently, anyway, in the 1990s,
16 early 1990s - 1991, 1992.
17
18 Q. The 1991 guidelines?
19 A. Yes.
20
21 Q. What is the name of the guidelines that had preceded
22 the 1991 guidelines?
23 A. I think that was Pay Attention to the Flock.
24
25 MR STEWART: I call for that, the preceding manual to
26 elders, the one preceding the 1991 book, which is at
27 tab 80.
28
29 MR TOKLEY: I haven't got it with me, your Honour,
30 personally. But if we have it, we will produce it, I will
31 have instructions taken straightaway to ascertain its
32 location and have it produced to the Commission.
33
34 MR STEWART: Q. I suggest what happened here, Mr Ali, is
35 that you and your fellow members of the committee wrongly
36 concluded that there was insufficient evidence to accept
37 [BCG]'s allegations?
38 A. That we had wrongly concluded it?
39
40 Q. Yes.
41 A. I don't see it that way, I'm sorry.
42
43 Q. And you have then just ignored those allegations?
44 A. No, no, that's incorrect.
45
46 Q. You didn't even record it in your report to the
47 branch?

1 A. No, as we needed to report what we had - our findings
2 were as to this person, but we - we did follow up, I think,
3 within a reasonably very short time on the other
4 allegations.
5
6 Q. Well, what then happened was that there was an appeal,
7 by [BCH]?
8 A. Yes.
9
10 Q. And the allegations were resurfaced in the appeal; is
11 that right?
12 A. Yes.
13
14 Q. In the appeal, [BCH] admitted the allegations?
15 A. I believe so. That could have been the case.
16
17 Q. You were there, weren't you?
18 A. I was there, as a listener or a bystander, not
19 directly involved.
20
21 Q. So there was an appeal committee of elders Bennett,
22 Wilson and Joe Miraziz?
23 A. Yes.
24
25 Q. Were they from another congregation?
26 A. Yes.
27
28 Q. The judicial committee of you and Mr Bowditch and
29 Mr de Rooy, you were also present during the appeal --
30 A. As witnesses, yes.
31
32 Q. And in that hearing, when confronted with the
33 allegations, [BCH] admitted that he had abused his
34 daughter, [BCG]?
35 A. I can't remember that. That may have happened.
36
37 Q. In any event, the appeal committee then confirmed the
38 disfellowshipping and added to the grounds you had found,
39 of loose conduct and lying - added the grounds of porneia
40 in the form of gross sexual acts against his teenage
41 daughter five or six times during the latter part of the
42 previous year?
43 A. I believe so, yes.
44
45 Q. If you felt you didn't have sufficient proof, Mr Ali,
46 did you consider reporting these matters to the police?
47 A. No.

1
2 Q. [BCG] didn't ask you not to report to the police, did
3 she?
4 A. No.
5
6 Q. Even after the confession by [BCH], you still didn't
7 consider reporting to the police?
8 A. I can't recall that she did, no.
9
10 Q. I asked whether you considered reporting the matters,
11 even after the confession?
12 A. I did?
13
14 Q. Yes, did you? You didn't, did you?
15 A. No, I didn't, no.
16
17 Q. Can you explain why not?
18 A. Well - you mean after the appeals committee?
19
20 Q. At either stage. You had had two confessions, judging
21 by your notes. But at either stage, why didn't you
22 consider reporting to the police?
23 A. Well, that was still in the process of finding the
24 facts on the charge of porneia, that that had - he was
25 guilty on porneia and needed to be disfellowshipped on
26 that.
27
28 Q. After the appeal committee, the facts had been found.
29 There was no fact-finding continuing. After the appeal
30 committee, why did you not consider reporting to the
31 police?
32 A. Because it is still a matter of dignifying the person,
33 of allowing them that opportunity to do that.
34
35 Q. Do you not think this man should go to gaol?
36 A. I'm very happy that eventually he did, for what he
37 did.
38
39 Q. Well, that was only because [BCG], some years later,
40 found the strength, after she had left the church, to
41 report to the police. In the interim, you and your
42 colleagues didn't report to the police at all?
43 A. No, we didn't.
44
45 Q. Did you think it was okay for this man to be walking
46 the streets and continuing an ordinary life, having
47 received these allegations and confession?

1 A. It's certainly not a good thing for him to be freely
2 doing what he was doing. I agree.

3

4 Q. Wasn't it your duty to your fellow women, men and
5 children, to report a man like this to the authorities so
6 that he can be properly charged and, if found guilty, put
7 in gaol?

8 A. Well, the police tried to do that.

9

10 Q. Well, they only tried to do it years later, when [BCG]
11 reported to the police. All those intervening years, you
12 had it within your power to report it to the police and set
13 the train in motion - not so?

14 A. Still, we had - we did not have, I guess, the
15 direction to be able to do that, and which I'm glad today
16 that it has encouraged us now to follow through in seeking
17 legal aid to do whatever we can, to not only protect the
18 victim, but to prevent anybody else being molested.

19

20 Q. Well, the real reason is, isn't it, that you see your
21 structures within the church as replacing, standing in the
22 place of, the civil structures?

23 A. Only when it comes to spiritual matters, and if those
24 morals have - people - those within the church have crossed
25 those, the guidelines are that they take the steps to
26 remove the person, protect, then, through either
27 instructions or personal counselling to those that are
28 involved with that family, and warning them of not allowing
29 their children to stay overnight with this person, never to
30 be alone with this person, never to work alone or go
31 anywhere with that person. So many have been made aware of
32 that.

33

34 Q. You regard the police and prosecution authorities as
35 worldly authorities and, therefore, not to be trusted;
36 isn't that right?

37 A. No, I don't - I don't agree with that.

38

39 Q. And that's because you have your own structures which
40 displace the secular structures?

41 A. No, we work - we try and work in all the time with the
42 legal - with the legalities of anything. Where the
43 authorities need to handle the cases like that, we will
44 work in with that, on the advice that the legal department
45 give us.

46

47 MR STEWART: No further questions, your Honour.

1
2 THE CHAIR: Does anyone else have any questions?
3
4 MS DAVID: Yes.
5
6 MR COYNE: Yes, I will, your Honour. I'm just having some
7 difficulty reading some of this, to formulate the
8 questions. If I can have a little bit of time.
9
10 THE CHAIR: What do you want me to do?
11
12 MR COYNE: If I could have five minutes - I've now been
13 given a transcript of the handwritten notes. I'm just
14 trying to read that.
15
16 THE CHAIR: I think you should go second, anyway.
17
18 **<EXAMINATION BY MS DAVID:**
19
20 MS DAVID: Q. Just to be clear, in relation to the
21 confession that you have noted in the notes that were just
22 read out to you with counsel assisting, do you not agree
23 that that, of itself, is proof, isn't it, according to the
24 criteria, the judicial standards?
25 A. It may be considered, but we needed to substantiate.
26
27 Q. But isn't the confession - of it itself, isn't that
28 what your guidance says, that it can be either a number of
29 witnesses to the one event or a confession?
30 A. Of the same incident?
31
32 Q. Just a confession by the --
33 A. Of the wrongdoer.
34
35 Q. Yes.
36 A. Yes.
37
38 Q. So a confession of itself is sufficient evidence,
39 isn't it, to prove that matter?
40 A. It is, yes, yes. Quite true.
41
42 Q. But in this case, you just ignored it?
43 A. No.
44
45 Q. Well, you weren't satisfied of it, were you?
46 A. No, we needed - I think in - it's hard to define that,
47 but - except to say that the person may - might say things

1 on the spur of the moment because they need to get out of
2 that situation. We needed to follow through to make sure,
3 eventually, that this was the case, that this was true,
4 that we could act on that.

5
6 Q. So you have a person that you considered to be brave,
7 in the form of [BCG] --

8 A. Yes.

9
10 Q. -- and a person you said yesterday that you believed
11 and had no reason - in fact, you said you believed her?

12 A. Mmm. Mmm.

13
14 Q. And then you also have a confession. But you choose
15 to disbelieve the confession; is that the situation?

16 A. Well, the confession I don't think was a confession in
17 the sense of saying that he meant it. This is what --

18
19 THE CHAIR: Q. I don't understand this. I don't
20 understand this. Someone says to you that they accept that
21 they committed what amounts to a serious crime - correct?
22 And you say they might do that, confess to a serious crime,
23 to avoid a situation. I do not understand. Can you help
24 me to understand what you mean by that?

25 A. A person may say things - whether to get around
26 something or not - and then deny it later, or, "Well, try
27 and prove it" - it was that manner, it was the manner,
28 perhaps, that we needed to follow through to make
29 absolutely sure that - because if a person says that and
30 then backs away from it later, we are left stranded, and
31 the victim is also left stranded, and we found that to be
32 the case with what proceeded after that, with the courts,
33 where even they found it difficult to go through a number
34 of times, to get him to admit to that, and even then, they
35 found that he wouldn't do that. So this is what we were
36 faced with, I feel. I can't speak for the other members,
37 but we needed to follow through to substantiate that
38 thoroughly and make sure absolutely that it was absolutely
39 true. That's the way I would comment on that reason.

40
41 Q. Is this your own thoughts, or is this how the
42 Jehovah's Witnesses decide issues?

43 A. Well, we need to find the evidence, your Honour, on -
44 a person may say --

45
46 Q. But are these your own thoughts, or are these how the
47 Jehovah's Witnesses generally conduct their inquiries?

1 A. This is our guidelines that we need to follow through
2 and substantiate that, yes.
3
4 Q. So even when someone confesses to a serious crime, you
5 don't accept that and make a finding based upon
6 a confession?
7 A. No, I think in certain circumstances we may have
8 doubts as to the truthfulness of this person who is in a
9 situation of lying already. We found him time and time
10 again to either say things, deny things, and so on and so
11 forth, and we had a battle to try and make something
12 concrete in his case, and this is why - you have seen that
13 in the reports - that he continued - we put that charge of
14 deliberately lying. And that's serious. That, in itself,
15 can disfellowship a person.
16
17 Q. It may be serious, but sexual assault of a child is
18 very serious, isn't it?
19 A. It is.
20
21 Q. And here you had an account of what happened from
22 a person who you have told this hearing you believed. You
23 also had a confession from the person who was alleged to
24 have committed the act, and you tell me that the rules of
25 the Jehovah's Witnesses didn't allow you to make a finding
26 based on that material; is that right?
27 A. No, that's not correct, your Honour. We have someone
28 that we believed what she said. We have another person who
29 lies about what they said. He may say certain things, but
30 we have no proof that we can believe this character,
31 because he has a reputation of lying. So --
32
33 Q. Why couldn't you believe what he said based upon the
34 fact that you accepted the truth of what the woman had
35 said? Why wasn't that enough?
36 A. Because we still need at least two witnesses to
37 a matter, to - but reliable witnesses, I suppose we would
38 need to say, to actually substantiate those charges, or to
39 make a charge stick.
40
41 MS DAVID: Q. It is separate, isn't it? You are not
42 authorised by the scriptures to take congregational action
43 unless there is a confession or there are two credible
44 witnesses?
45 A. Mmm, yes.
46
47 Q. That's the position, just to be clear?

1 A. It is the position, yes.
2
3 Q. You just changed that in your previous answer. See,
4 isn't it the situation that you are reluctant, aren't you,
5 to make findings of such a nature against a brother who
6 holds a senior position within the congregation?
7 A. No. Why would we try and hide him from a crime?
8
9 Q. Well, isn't it the case that within the Jehovah's
10 Witness faith, you are of the belief that ministerial
11 servants and elders are appointed by the holy spirit -
12 isn't that the case?
13 A. Correct.
14
15 Q. And that the ministerial servant - [BCH] was
16 a ministerial servant.
17 A. Yes, he was.
18
19 Q. And he was a person, therefore, who was regarded
20 within the congregation as someone to be looked at highly?
21 A. No, we don't see it as "highly".
22
23 Q. Don't you see that appointments by the holy spirit is
24 a rather special position within the congregation?
25 A. It is more of a slave than a position. It's not as if
26 we hold some dignified role or dress differently or
27 whatever. We are there to work, you could say, as
28 shepherds, to care - to try and care for their needs and to
29 help them.
30
31 Q. Just coming back to the appointment process, the
32 appointment process, you believe, is that you are appointed
33 to those positions by the holy spirit - isn't that the
34 case?
35 A. One has to go through a process of defining that. One
36 has to have the qualities, first, so it may take some time
37 for them to demonstrate that, first, before they are
38 recommended to that.
39
40 Q. That's right. So once they are recommended by the
41 holy spirit - and it is really that, isn't it, an
42 appointment by the holy spirit?
43 A. Well, we - as a congregation, we recommend that that
44 person be appointed. We send that recommendation to the
45 branch. They look at that situation. They pray over it.
46 They look at the whole record and they decide when that
47 person is appointed or not. We, in a local atmosphere,

1 don't do that.

2

3 Q. Did you have any involvement in the appointment -
4 recommendations or appointment of [BCH] at all?

5 A. No.

6

7 Q. But you would agree, wouldn't you, that to find out
8 that a brother had in fact - a person who was appointed by
9 the holy spirit as a ministerial servant - would call into
10 question your processes somewhat, wouldn't it?

11 A. No, I don't see why. What we need to do, then, as
12 elders - and there is usually a body that is involved in
13 the congregation - is monitor even each other. If one of
14 those appointed men is displaying a particular sin or
15 a weakness in a certain regard, that help would be given
16 before he reaches a time where - before he can't be turned
17 back. But if he continues in that course, then we can
18 recommend his removal.

19

20 Q. But you would agree, though, wouldn't you, that it
21 calls into question how people are appointed to these
22 particular positions? It calls into question the process
23 or the rigour of the process, doesn't it?

24 A. No, it doesn't.

25

26 Q. That people are appointed incorrectly?

27 A. No. No, it doesn't happen that way. We need to
28 follow the guidelines that the scriptures proceed, for
29 example, in the letters to Timothy, there is a whole list
30 of things that those who do the appointments would go
31 through, and the elders who go through that process would
32 need to look at.

33

34 Q. You see, I want to suggest to you that the purpose of
35 the committee or the interrogation - and I would like to
36 call it an interrogation - of [BCG], during the committee
37 process, is partly designed to test her against a person
38 who is considered to be an esteemed member of your
39 congregation?

40 A. I didn't quite understand what you meant by that.

41

42 Q. The process of interrogation is to protect the
43 members, the elders, and the ministerial servants of your
44 congregation?

45 A. Why would we want to do that, if I may ask?

46

47 Q. Because it's the case, isn't it, that women should be

1 subjective to men, in your religion, shouldn't they? They
2 should defer to men?

3 A. They are directed by the Bible in its principles to
4 act on a role that he has qualified for them. That doesn't
5 mean subjection in a sense of "do as I say".
6

7 Q. It means to defer to men, doesn't it?

8 A. It defers to the authority of certain men, yes.
9

10 Q. When you said yesterday that [BCG] was very brave in
11 the committee meetings, what did you observe about her that
12 made you conclude that she was brave?

13 A. Look, it's not an easy - reading - you see, reading
14 our articles and the direction from the branch on those
15 things, and there are Awakes! and Watchtowers that acquaint
16 us with the pain and the suffering that a person goes
17 through and how they may feel, and even as a father one
18 would imagine my own daughter, who was about the same age
19 as [BCG] - to be able to stand up and tell the elders how
20 she felt, it wasn't - it wouldn't have been easy at all for
21 her. As a father, I felt - I felt for her and I could see
22 that she took her time. We encouraged her to just relax,
23 take her time, no matter how long it took, that as long as
24 she felt comfortable with telling us - because she wanted
25 to explain what had happened to her. And I believe we did
26 that, we wanted to allow her that time. But I felt that
27 she also had courage to be able to do that, to explain
28 those feelings and the hurt and the pain and every detail
29 that she went through of what her father did to her, which
30 I guess brought out in me certain feelings of anger,
31 perhaps.
32

33 Q. Anger towards --

34 A. Him.
35

36 Q. -- [BCH]?

37 A. Him, yes, the father.
38

39 Q. But yet you chose not to do anything about it?

40 A. Well, my own feelings put aside, I still need to deal
41 on a rational basis, keeping those feelings and knowing
42 what she was going through. These are serious - one cannot
43 ignore that. I know I spent some sleepless nights knowing
44 things like that afterwards, as we dealt with her case.
45

46 Q. You mentioned that in your statement, that you spent
47 some sleepless nights, but none of that translated into any

1 action to give her - to give [BCG] any support, did it?
2 A. No, it did. It did. Because the other two brothers
3 who were closer, as a family, were doing everything to
4 house and protect her. There was a neighbour that lived
5 close to the family that also took her in.
6

7 Q. You see, I want to suggest to you that she wasn't
8 immediately removed from the environment in which she had
9 been abused, was she? I am suggesting to you that, also,
10 her father had ready access to her?

11 A. Well, my understanding at the time, that it was very,
12 very quick, though, that that was given - very, very
13 quickly.
14

15 Q. And I also want to suggest to you - well, it is quite
16 clear, isn't it - the young children weren't removed - the
17 other sisters weren't removed from access to the father
18 where he might further abuse them, were they?

19 A. They weren't removed, no.
20

21 Q. No steps were taken, in fact, were they?

22 A. No - sorry?
23

24 Q. No steps were taken to protect either [BCG] or any of
25 her sisters?

26 A. Well, I wouldn't say that, because now the mother also
27 was involved, and what we normally do, if things progress
28 very quickly to that, is to make her know that these things
29 have taken place and to make some steps about protecting
30 her children as well. Again, even she had the right to go
31 to the police about what her daughter had gone through
32 against her husband, if she so desired.
33

34 Q. You were aware that [BCG]'s mother, in fact, was aware
35 of the abuse, had been aware of the abuse for some time,
36 weren't you?

37 A. She may have been, yes.
38

39 Q. But she took no steps to protect her children,
40 notwithstanding her knowledge of the abuse?

41 A. Possibly, and that's a pity, if she did that.
42

43 Q. You were aware of that at the time, weren't you?

44 A. But I - yes, but it was still an unsubstantiated - we
45 needed to still follow through to prove that that's what he
46 did to other children. But from - as my memory recalls, we
47 took the steps that were open to us to try and acquaint

1 them with that danger.

2

3 Q. Wouldn't you view going to the police as a system that
4 would in fact assist you with ministering your faith, in
5 this way: I want to suggest to you that if you had gone to
6 the police, wouldn't it have been the case that they would
7 have been able to properly investigate the nature and
8 extent of the crime that was alleged?

9 A. And that's why the abuser - the abused, or anybody in
10 that family, had the right to do so.

11

12 Q. But wouldn't it have been in your interests - wouldn't
13 it have enabled you to better attend to the spiritual needs
14 of both the accused and the accuser, if you had some other
15 system which would have enabled you to have a better
16 understanding of the nature of the crime that you were
17 dealing with?

18 A. And I think we have that now, we have that help. But
19 back then, in 1988/1989, such was the case where we felt we
20 took the appropriate steps, and you mentioned the police.
21 That was a right that the family could follow through on.
22 And we dignified that right. I mean, would we be stepping
23 out of line? What if the person then didn't want that?

24

25 Q. The situation is that the whole process of the
26 committees has nothing to do with protecting a victim, does
27 it?

28 A. The interests of?

29

30 Q. The process of the committee has nothing to do with
31 protecting the victim of a crime, whether it is sex abuse
32 or any other crime, does it?

33 A. That's incorrect.

34

35 Q. Because isn't the primary purpose of your committee to
36 restore - in every situation where guilt is established the
37 primary endeavour of the overseers is to restore the
38 wrongdoer. Isn't that what it's all about? It's really
39 about restoring the wrongdoer to come back to Jehovah,
40 isn't it?

41 A. We would like that to happen. But the - we also need
42 to read the rest of that, where it says if a person does
43 not have that intention, does not care to, then that - they
44 will be dealt with.

45

46 Q. But the point of my question is this: isn't it the
47 case that it has nothing to do with support or finding

1 justice for a person who has been abused, for example?

2 A. No --

3

4 Q. The process has nothing to do with that, does it?

5 A. Of course it has. Of course it has. It's all part
6 and parcel of finding facts and proving that, and then
7 allowing that individual to follow through with any
8 authority that he or she chooses to. But it's not within
9 our capability or authority to override that and say,
10 "I will do that. I don't care what you say." That would
11 be up to that person to follow through with that course.
12 That's my understanding.

13

14 Q. You would have to concede, though, wouldn't you, that
15 you are completely ill-equipped, as an organisation, to
16 protect victims such as [BCG]?

17 A. I disagree.

18

19 Q. In what ways do you say you are equipped to assist
20 them - protect them?

21 A. Because we have the directions through our
22 publications, through letters, through the schools that we
23 attend every two years; we have visiting brothers or
24 representatives called circuit overseers; we had district
25 overseers who would visit every six months, and so forth,
26 that we could discuss further or ring at any time, if we
27 needed some little clarification on whatever we needed to
28 do. So we had all the help that was available to
29 understand and follow through on the guidelines that we had
30 at that time.

31

32 Q. You talk about follow through, but you don't actually
33 say what you actually do, because I want to suggest to you
34 that at no stage did anybody from your congregation even
35 try to assist [BCG] by giving her some spiritual guidance
36 through the scriptures, by talking to her about the
37 scriptures, how she might feel better about herself after
38 her abuse. No-one did that.

39 A. There was a lot of follow-up. After what she went
40 through, there was a lot of follow-up. There was a lot of
41 interaction with certain families, and you will find that
42 once Kevin or Ron are here - you will probably - because
43 they were closer. I know that they did follow through with
44 visiting and supporting her in every way, even with any
45 activities that came from after that.

46

47 Q. You personally did not, and have no personal or direct

1 knowledge of her being given any guidance through the
2 scriptures, do you?
3 A. Yes, yes, yes.
4
5 Q. You were never present when she was given any guidance
6 by the scriptures, were you?
7 A. I think the notes, probably, in the next meeting that
8 we had - there were many articles, I think, that were
9 quoted there that suggest that.
10
11 Q. Outside of the committee meetings, there was no
12 guidance given to her from the scriptures, was there?
13 A. I can't recall myself doing that, no.
14
15 Q. And at no stage did you ever tell her that you
16 believed her, did you - that you believed that what she
17 said about the allegations against her father was true?
18 A. I don't recall ever saying I don't believe her.
19
20 Q. No, my question was: you never told her that you
21 believed her, did you?
22 A. I can't recall that but - no.
23
24 Q. You never told her that you thought she was brave for
25 coming forward, did you?
26 A. I thought I did. I believed I did.
27
28 Q. Did you ever tell her that it wasn't her fault?
29 A. Of course. It's something that she - she is a victim.
30
31 Q. Well, I'm suggesting to you that at no stage did you
32 ever say to her, "It was not your fault."
33 A. I believe we did.
34
35 Q. You see, were you aware of the gossip that was going
36 around at the particular time, where people in the
37 congregation were accusing her of lying?
38 A. No.
39
40 Q. You weren't aware of that in your small congregation?
41 A. That others were accusing her?
42
43 Q. Yes. There was gossip about her, that she had been
44 telling lies?
45 A. I can't recall that, no.
46
47 Q. After she attempted to commit suicide, obviously that

1 would have alerted you to the extreme distress that she was
2 experiencing? You are aware that she attempted suicide
3 some months --
4 A. I can't recall that.
5
6 Q. You can't recall?
7 A. No.
8
9 Q. So you certainly don't, then, recall giving her any
10 comfort or guidance after that incident?
11 A. I can't recall myself personally being involved in
12 that. The other brothers, of course, did, because their
13 families were closer --
14
15 Q. You don't have any recollection and you don't know
16 what your other brothers did in relation to that, do you?
17 A. Yes, I do.
18
19 Q. You just said a moment ago that you didn't even know
20 that it occurred.
21 A. No, but I know the support that they gave her, and the
22 comfort, too, of taking her into their homes.
23
24 Q. During the judicial committee process, there was
25 a period where you all individually questioned her -
26 separately - do you recall doing that, with [BCG]?
27 A. No, we were all together.
28
29 Q. I am suggesting that there was a period, wasn't there,
30 that you all, separately, had the opportunity to question
31 her without the others?
32 A. No. No, that didn't happen. Our judicial meetings
33 are always together, the three elders, whoever they may be.
34 That is the process.
35
36 Q. You were testing her for inconsistencies, though,
37 weren't you, when you were conducting your inquiry?
38 A. Can you give an example of that.
39
40 Q. I'm just asking you: you were testing her for
41 inconsistencies --
42 A. No.
43
44 Q. -- by asking her repeatedly to tell her story?
45 A. No. If we needed to clarify something and put that in
46 place so that we could better understand, that would be the
47 only occasions that we would ask those - that particular

1 question. But not - we wouldn't ask repeatedly if we
2 already knew that it happened - why - there would be no
3 sense of us doing that.

4

5 Q. But you would agree, anyway, in the event that through
6 seeking clarification, you were satisfied, then, that
7 whatever she said - that her story was a consistent story
8 and that it was a believable story?

9 A. Yes, we wanted to - we wanted to now make - ensure
10 that, so that if we needed to follow up with the father,
11 that we had - we had some of what happened in detail so
12 that we could then follow through with that, too. But
13 never - never to question [BCG] on her - whether we
14 believed her or not. That's - that would be not correct.

15

16 Q. Do you still have your notes in front of you that you
17 had made of those meetings - the handwritten notes?

18 A. The handwritten notes of the meeting - yes.

19

20 Q. Can you please turn to page 5 of those notes?

21 A. Yes.

22

23 Q. If you could please turn to the bottom of page 5, do
24 you see there that it says this - it has "[BCH]", "[BCG]"
25 and "[BCI]". So that relates to [BCG] and both her
26 parents?

27 A. Okay, yes.

28

29 Q. If you look down, it says "when faced and hears
30 accusations; denies all", at this point. And then it says:

31

32 *Says all part of parental training and yes*
33 *kissed on mouth and hugged tightly but*
34 *that's all!*

35

36 Did you counsel him about the appropriateness of that sort
37 of parental training?

38 A. Well, some cultures do do that.

39

40 Q. So kissing on the mouth and hugging in a way that
41 clearly [BCG] considered to be inappropriate and
42 frightening to her, you consider that to be appropriate
43 parental training?

44 A. Not with everybody. Not with everybody. I'm - to
45 explain, I'm an Albanian by birth. My parents were
46 Albanian, so they are from Europe. There are cultures
47 there where children and parents do kiss, as such. It

1 means affection and it is taken as such. And that's why in
2 answer to you that even here, within our own area,
3 Australia, country of Australia, we have cultures who do
4 follow through that - with that. He was a person of
5 Hungarian --
6

7 Q. In Queensland, or in Australia, would you not consider
8 that such a kissing of the mouth in a manner that clearly
9 constituted an affront to the person being kissed would
10 constitute some kind of an indecent assault?

11 A. I would, that in - now, yes, that would be considered
12 by many as that, yes.
13

14 THE CHAIR: Ms David, I think we might take the morning
15 adjournment.
16

17 MS DAVID: Yes, sorry, your Honour.
18

19 **SHORT ADJOURNMENT**
20

21 MS DAVID: Thank you, your Honour, I just have a few more
22 brief questions.
23

24 I don't think I stated for the record, your Honour,
25 initially, that I am Ms David, appearing for [BCG], and
26 I apologise for that, and also to Mr Ali.
27

28 Q. Mr Ali, I asked you a few questions before morning tea
29 in relation to a meeting whereby I suggested to you that
30 you came in to the meeting - sorry, that you questioned
31 [BCG], one at a time, at one particular meeting. Have you
32 had an opportunity to see [BCG]'s statement since
33 yesterday? I know you said yesterday that you hadn't read
34 it?

35 A. No, I haven't.
36

37 Q. Could you be shown a copy of statement 1, please,
38 paragraph 43. Could you please read that paragraph?
39

40 A. Out loud?
41

42 Q. Yes, the first - paragraph 43. That is the statement
43 of [BCG].
44

45 A. Read to myself, do you mean?
46

47 Q. Yes, just read it to yourself - really, the first two
sentences or the first three sentences. So [BCG] suggests
that that did happen, in fact. So I'm suggesting to you

1 that during the course of this process, she was asked
2 questions by each of you separately, when you were alone
3 with her - each of you separately?
4 A. That's incorrect.
5
6 Q. You haven't read the statement of [BCG] up until this
7 point, have you?
8 A. No.
9
10 Q. Is there a reason for that?
11 A. Do I need to? I'm not sure.
12
13 Q. Well, do you not think that reading the statement of
14 a person who has made such an allegation, a victim of child
15 sexual abuse, or sexual abuse - it would help to understand
16 the position of a person such as [BCG]?
17 A. I'm not sure what to say to that. I mean, that is
18 something that the courts went through and dealt with at
19 that time.
20
21 Q. What I'm asking you is would not it assist you to
22 understand the plight of a victim of sexual abuse?
23 A. I can read what's on that page and I appreciate you
24 allowing me that opportunity to do that, but - I'm not
25 sure --
26
27 Q. Mr Ali, I'm simply suggesting to you, do you not agree
28 with the proposition that it would assist you to understand
29 how victims of sexual abuse feel if you actually took some
30 time to read statements from victims that were available to
31 you?
32 A. We have done that, or I have done that.
33
34 Q. But you didn't bother to read --
35 A. Not this particular one, but there have been other
36 cases that have been recorded, and how they felt and what
37 circumstances they faced, and I appreciate the
38 circumstances more.
39
40 THE CHAIR: Q. Just go to paragraph 44. Do you see that
41 on the screen?
42 A. Yes.
43
44 Q. Can you read that for me, please?
45 A. Yes.
46
47 Q. Now, you understand what she is saying?

1 A. Yes.

2

3 Q. Do you now understand that to require a young woman to
4 confront three males, who are friends of her father, to
5 make allegations or bring allegations that her father has
6 sexually abused her, was a very difficult process?

7 A. It was.

8

9 Q. It's not appropriate, is it?

10 A. That's the guidelines that we follow.

11

12 Q. It's not appropriate. As a way of receiving
13 allegations from a young woman about sexual assault by her
14 father, do you think, now, that it is appropriate that she
15 be required to confront three men who are friends of her
16 father, and there is no-one else present?

17 A. I think, under the circumstance and the guidelines,
18 yes, I still feel it's appropriate, because of the fact of
19 what we represent.

20

21 Q. Leave aside the guidelines. You see what she is
22 saying. Do you understand what she is saying?

23 A. I understand what she is saying, your Honour.

24

25 Q. Do you think it's appropriate - leave aside the
26 guidelines. Do you think it's appropriate to have a system
27 which requires a woman, a young woman, when making
28 allegations of sexual assault by her father, to speak with
29 three men who are friends of her father's, and no-one else
30 is present?

31 A. Yes, it is appropriate.

32

33 Q. Why?

34 A. She was requested or asked if she would like to do
35 that, and she was quite agreeable to do that. How
36 difficult it was for her - thus, my reason for saying that
37 she is a very courageous person in following through with
38 that. But she was requested if she would like to be part
39 of the judicial committee to explain, and she agreed with
40 that. Her feelings in that - in that instance, is -
41 I recognise - I feel very much for what she had to go
42 through, even more so. While I'm not in that situation,
43 I do appreciate that.

44

45 Q. She had no choice. The only system that you made
46 available to her, if she was to pursue the allegations, was
47 this one, wasn't it?

1 A. Yes, it was, but we --
2
3 Q. There was just no choice. In your organisation, there
4 was no choice?
5 A. There is a choice, your Honour.
6
7 Q. What's the choice?
8 A. The choice is that she is asked to come. But nobody
9 is ever forced into that process.
10
11 Q. Very well. You see the last sentence:
12
13 *I didn't really offer the full detail of*
14 *the sexual abuse.*
15
16 Do you understand what she is saying?
17 A. Yes.
18
19 Q. What she is saying is because she had to confront the
20 three of you, who were friends of her father's, she felt
21 unable to detail the full extent of the sexual abuse - do
22 you understand that?
23 A. I understand that.
24
25 Q. Do you accept that as being a true position?
26 A. On her behalf, yes, I understand what she would have
27 gone through that way.
28
29 Q. Do you accept that that demonstrates a serious flaw in
30 your process?
31 A. No, I still maintain that because she had a choice -
32 she didn't need to unless she was - she wanted to come and
33 explain what she was going through. We do not force her to
34 do that. I know how difficult - I understand how difficult
35 it was for her.
36
37 Q. Your church requires people to report allegations or
38 experiences of misconduct by members of the church, doesn't
39 it?
40 A. True.
41
42 Q. Requires. So she had an obligation to report, didn't
43 she?
44 A. Yes, she could report it. But whether she chose to
45 come into that particular process herself or just simply -
46 she's requested to come into that room and be part of that
47 process.

1
2 Q. How would she be faithful to her obligation to bring
3 the allegation unless she came and spoke to you three men?
4 A. Yes, that is a process --
5
6 Q. How could she do it otherwise?
7 A. That is a process we need to take, and perhaps there
8 may be other ways in which that can happen, but we still
9 needed to understand, and she obviously wanted to, because
10 she approached us to do that.
11
12 Q. But if she was to be faithful to her obligation to
13 report the misconduct to the elders, she had to confront
14 the three men who had been assembled, didn't she?
15 A. With much reassurance - yes, I agree.
16
17 Q. And you still think that's an appropriate process for
18 a young woman who is bringing allegations of sexual assault
19 by her father, do you?
20 A. I believe it's a step in understanding the process of
21 what happened. It's - I understand how difficult it was
22 for her.
23
24 Q. But what she is saying to you is, because of the way
25 this process was conducted, she wasn't able to tell you all
26 that she could have told you about what happened to her.
27 Do you understand that?
28 A. True, true. I understand that.
29
30 Q. So the three of you weren't actually receiving the
31 whole story, because the process wouldn't allow it. Do you
32 understand that?
33 A. I understand that, too.
34
35 Q. Well is that not suggesting to you there is a flaw in
36 the process?
37 A. No. What it suggests to me, that we become aware of
38 how difficult it can be and try and be as patient, without
39 any force applied, but being patient and kind and showing
40 some compassion in that regard, hopefully, then, that may
41 help a little bit in doing that. But she - we understand
42 she has gone through a terrible, terrible ordeal.
43
44 Q. Well, that's undoubtedly true. Did you show her the
45 full compassion that you could show her at the time?
46 A. We believed we did, yes.
47

1 Q. But, still, you realise she wasn't able to give you
2 the full detail?
3 A. Yes, initially that was the case. But as the process
4 went on, it got to the stage where she could talk about it,
5 to the extent that she could, and it was commendable that
6 she could do that, and it wasn't just the first time -
7 there was probably a number of times that she did that, and
8 that's why I say that she continued to do what she could to
9 help us appreciate that - the gravity of that horrible act.

10
11 THE CHAIR: Yes.

12
13 MS DAVID: Q. You have described [BCG] as courageous and
14 as brave?

15 A. I do.

16
17 Q. And you have just stated in your evidence that that
18 enabled her to ultimately give her story, through that
19 process?

20 A. Any young - at that age, yes, it would be. Yes,
21 I admire. I admire that.

22
23 Q. Do you agree that a person who was a timid person
24 would have absolutely no hope of finding a voice within
25 that process, would they?

26 A. I doubt that.

27
28 Q. They would have no chance, would they?

29 A. No, no, that's not what I meant.

30
31 Q. Well, isn't it the case that you need to be brave, you
32 need to be courageous, to even get to a point where you can
33 tell your story in your committee process?

34 A. Well, from [BCG]'s own expressions there, how
35 difficult it was for her, that's something that we want to
36 realise even more so, but it doesn't - it doesn't prevent
37 a person from continuing to come forward, and she did.

38
39 Q. But do you not agree that such a process would cause
40 a timid person great fear and very likely result in them
41 not voicing the abuse that they were experiencing?

42 A. I can't answer that. I'm not sure what a person may
43 feel in being timid. Each personality is different. But
44 I'm sure that some way could be found to overcome that and
45 relate whatever needs to be in that case.

46
47 Q. But isn't it the case that it's most likely that you

1 would never hear about it, because they would be too timid
2 to step forward?

3 A. This is a decision that each person takes. I just do
4 not know how to answer that question.

5

6 MS DAVID: Nothing further, thank you.

7

8 <EXAMINATION BY MR COYNE:

9

10 MR COYNE: Q. My name is Coyne. I represent Mr Ali and
11 others in these proceedings. Mr Ali, in 1989, how long had
12 you known [BCG]?

13 A. I was in the congregation, baptised in 1981. I'm not
14 sure if they were there at that time, but it would be
15 probably just a couple of years.

16

17 Q. How well did you know [BCG] at that time?

18 A. We didn't socialise to that degree; we were part of
19 the congregational group that were always meeting together,
20 two or three times a week.

21

22 Q. In 1989, was [BCG] engaged?

23 A. I think she was engaged.

24

25 Q. And that was to [BCJ]?

26 A. Yes.

27

28 Q. Did you know him?

29 A. We knew him.

30

31 Q. What role, if any, did [BCJ] have in supporting [BCG]
32 in these proceedings?

33 A. He was there all the time. She confided in him and he
34 always made himself available during the process.

35

36 Q. So whilst not present within the room, he was on and
37 around the premises?

38 A. He was just outside that door, yes.

39

40 Q. I want to ask you about these notes. Do you still
41 have a copy of them in front of you?

42 A. Yes.

43

44 Q. Those notes were prepared by yourself?

45 A. Yes.

46

47 Q. Is it your handwriting throughout it?

1 A. It appears to be my handwriting.
2
3 Q. Were they all prepared on the same day, or on
4 different days?
5 A. Different days.
6
7 Q. The first date that appears there on page 1 is 1 June
8 1989; do you agree with that?
9 A. That's correct, yes.
10
11 Q. The last date, at page 15, being 19 July 1989 - would
12 you agree?
13 A. Yes, yes.
14
15 Q. It's headed "Notes of investigating committee"?
16 A. That's correct.
17
18 Q. Was the purpose of that particular investigating
19 committee to investigate allegations of adultery against
20 [BCH]?
21 A. Correct.
22
23 Q. Is it the case that the first three pages of those
24 notes relate to that investigation?
25 A. Perhaps a bit more.
26
27 Q. On page 4, allegations have been made in relation to
28 the subject of these proceedings?
29 A. Correct.
30
31 Q. Then, at page 5, it details his response to those
32 allegations, and it says:
33
34 *When faced and hears allegations; denies*
35 *all.*
36
37 A. He did, yes.
38
39 Q. It says:
40
41 *All part of parental training and, yes,*
42 *kissed on mouth and hugged tightly but*
43 *that's all.*
44
45 It says:
46
47 *That [BCG] asked questions about subject.*

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Then it says:

On looking into shower - walking past perhaps? and remembers [BCI] was home.

It says:

Chasing [BCG] to [another person's place] - playing with bucket of water!

And then it says:

Breaking down bath door? - hurry to bathe as glasses may have been in there (despite nakedness of [BCG]).

So that's your record of his response to the specific allegations at that time.

A. It appears that's the case, yes.

Q. Throughout that meeting, at all times he denied the allegations?

A. He did.

Q. And gave an explanation of them?

A. That's correct.

Q. If we then move over to the next page, page 6, you will see about two-thirds of the way down it says "End of meeting".

A. Yes.

Q. On the next page, page 7, halfway down, it says "That day" and then, after that, it says "That night". So that's detailing ongoing investigation carried out by the committee; is that correct?

A. That's correct.

Q. If we could bring up tab 3, please. Is tab 3 the response of your original investigation, which was into his alleged adultery?

A. That's correct.

Q. And that's your result of that?

A. That's the result.

1 Q. And it recommended disfellowshipping?
2 A. It does.
3
4 Q. Continuing on with your notes, on page 8, it has
5 a date of 3 June, and then also at the bottom of the page,
6 on 3 June, it says, "Go and see" another person, who is not
7 connected with these allegations in any case; is that
8 correct?
9 A. That's correct.
10
11 Q. Then at page 9 it says:
12
13 *31 May. Met as a judicial committee. With*
14 *the father and with --*
15
16 that other person?
17 A. That's correct, yes.
18
19 Q. By the way, the numbering of the pages - is that your
20 numbering?
21 A. I believe it could be, yes. I'm not sure.
22
23 Q. At page 10, the date 12/6/89; correct?
24 A. That's correct.
25
26 Q. Page 11, the date at the bottom is 17 June, "Met with
27 [BCG] and her mother"?
28 A. Yes.
29
30 Q. Page 12, the date is 28 June 1989.
31 A. Yes.
32
33 Q. You met as a committee with the North Cns elders?
34 A. Yes.
35
36 Q. Is that right?
37 A. North Cairns. That's an abbreviation.
38
39 Q. Halfway down that page:
40
41 *Met on 10/7.89 to discuss*
42 *disfellowshipping.*
43
44 A. That's correct.
45
46 Q. Just move forward a few pages. At the bottom of
47 page 14, it says:

1
2 *[REDACTED] has admitted to all things and*
3 *has said that whatever [BCG] has said re*
4 *molesting was true.*
5
6 Do you see that?
7 A. That's what it says.
8
9 Q. Do you know what date that was written?
10 A. I don't have a date there, I don't think. No, there's
11 no date that I can see that I've written there.
12
13 Q. Do you know what date that was said?
14 A. What day it was said?
15
16 Q. What date he actually made that admission?
17 A. I couldn't - I couldn't put a date to that, no, I'm
18 sorry.
19
20 Q. The next date in this document is 19 July - this is
21 page 15. It says to discuss with someone "our decision to
22 publicly reprove"; correct?
23 A. Is that page 15?
24
25 Q. Page 15, at the top.
26 A. Because I've got another blank before that. Sorry,
27 could you repeat that?
28
29 Q. It says there - sorry. Actually, I will backtrack
30 a page. If I could just take you to the bottom of it - it
31 is undated, but it must be page 15. Do you see that?
32 A. The page doesn't have a number?
33
34 Q. It says at the bottom "19/7/89" --
35 A. That's the one, yes.
36
37 Q. "*[REDACTED]* APPEALS, fax to Kevin".
38 A. That's right.
39
40 Q. It's dated 19 July 1989?
41 A. Mmm.
42
43 Q. If we could bring up tab 5, please. You have noted
44 there it is 19 July, and then this next document is in
45 relation to the appeal committee.
46 A. Yes.
47

1 Q. Can you see that?
2 A. Yes.
3
4 Q. That's dated 23 July.
5 A. That's correct.
6
7 Q. You were present at that meeting?
8 A. I was.
9
10 Q. It says there:
11
12 *Fresh evidence under questioning of*
13 *witnesses and appellant produced further*
14 *more serious reasons for disfellowshipping.*
15
16 A. Yes, I see that.
17
18 Q. Did you provide these notes to the police as part of
19 their investigation?
20 A. We did later, yes. .
21
22 MR COYNE: Thank you. Nothing further.
23
24 THE CHAIR: Mr Stewart?
25
26 **<EXAMINATION BY MR STEWART:**
27
28 MR STEWART: Q. Mr Ali, you gave these notes to the
29 police quite some years later; am I right?
30 A. Could you repeat that, please?
31
32 Q. You gave these allegations to the police quite some
33 years later?
34 A. When asked for, yes.
35
36 Q. Where were they in the meanwhile? Where were they
37 kept or filed?
38 A. We had - we used to keep files at the local hall,
39 locked, but generally, we would send either a copy or a
40 form to the branch.
41
42 Q. This particular set of notes, were they filed at the
43 Kingdom Hall; is that what you are saying?
44 A. Initially. Initially, after the - after our hearing
45 and judicial committee, the personal notes that we had were
46 given to the chairman of that judicial committee. I think
47 they were filed in the - at the hall. At the hall, yes.

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Q. So they are not notes that you retained personally, and the police got them from you personally?

A. No, no.

Q. Just on the question of [BCG] receiving support from her fiance, perhaps you can have a look at the page after page 16, which is Ringtail 1499. If you can look at the copy in front of you, you can see the context in the notes. This occurs after 19 July, or possibly on 19 July, but, in any event, after the decision to disfellowship and the institution of the appeal, and they are notes about counselling various people and assisting them. Do you see that?

A. No, I can't - what page was that on, sorry?

Q. I am looking at the reverse of page 16. The particular page is on the screen.

A. Okay.

Q. But I was just wanting - before I ask you about that, for your own sake, for fairness, I want you to be able to see the context in which that appears. It appears after the last page that my learned friend Mr Coyne had shown you, which was the one at 15, which is headed "19 July 1989", and discussing with some people, and then there are various pages in between discussing things with different people, and then we get to this page, and it has [BCG]'s name at the top - do you see that?

A. Yes.

Q. And this appears to be a note of your counselling [BCG]; would that be right. It says, "To counsel", and then it has an initial, which is the first letter of her name. Do you see that?

A. [BCG] is mentioned a number of times. Is that the one you are talking about, on the page?

Q. Yes. It says:

To counsel [BCG] --

so the person who did the redaction has perhaps --

A. Oh, yes, at the top of the page.

Q. -- made the assumption that the capital letter, which actually appears there on the unredacted copy, is the first

1 letter in [BCG]'s name. It says:
2
3 *To counsel [BCG] on talking to many others*
4 *(including writing letters to friends about*
5 *situation).*
6
7 MR COYNE: That's not accurate, the reading of that.
8
9 MR STEWART: No, it's not. "On talking to many others" --
10
11 MR COYNE: "Too much".
12
13 MR STEWART: Q. Do you see that?
14 A. Yes, I see that.
15
16 Q. Are we to understand this as a note of what you
17 counselled [BCG] about?
18 A. To talk to [BCG] about it.
19
20 Q. Yes.
21 A. Yes.
22
23 Q. So this is a note of what you had spoken to [BCG]
24 about?
25 A. Yes, to follow up - a follow-up on --
26
27 Q. Yes.
28 A. Yes.
29
30 Q. And so you counselled her against talking too much to
31 too many others; is that right?
32 A. It seems that way, yes.
33
34 Q. And you quoted a scripture to her, 1 Timothy 5:13?
35 A. Yes.
36
37 Q. That scripture was about not gossiping.
38 A. I believe so.
39
40 Q. Would you like to check, or do you accept --
41 A. I don't have a Bible, but --
42
43 Q. There is one at your elbow, but I can read it for
44 you --
45 A. Oh, okay.
46
47 Q. -- very quickly and easily, I think. It says:

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At the same time they also learn to be unoccupied, going around from one house to another; yes, not only unoccupied but also gossipers and meddlers in other people's affairs, talking about things they should not.

That's at page 1591.

A. Mmm. Yes, it talks about gossiping.

Q. And you told her that that scripture applies to her situation; is that right?

A. It appears so.

Q. And then you say:

even talking of family matters to [her fiancée] ...

And it says that's "unloving to other members"?

A. Yes, I see that.

Q. Also, if you look at page 6 of the notes, do you see that it says:

*[BCH] also stated that IF any "improper acts"
- [BCG] looking for the opportunities!*

Do you see that?

A. I noticed that, yes.

Q. So I take it that's also what he told you - he took that position, if there was anything improper that happened, she was looking for it - looking for the opportunities?

A. That's what he seems to have stated there.

MR STEWART: I have no further questions, your Honour.

THE CHAIR: Thank you, Mr Ali. Your evidence is concluded. You are excused.

<THE WITNESS WITHDREW

MR STEWART: The next witness is Kevin Bowditch, and his

1 statement is at tab 4 of the statements.

2

3 Your Honour, I should have tendered the notes. They
4 are, I'm told, redacted appropriately.

5

6 THE CHAIR: I will make the handwritten version
7 exhibit 29-008.

8

9 **EXHIBIT #29-008 HANDWRITTEN NOTES PREPARED BY DINO ALI**

10

11 THE CHAIR: And exhibit 29-009 will be the typewritten
12 copy of notes.

13

14 **EXHIBIT #29-009 TYPEWRITTEN COPY OF NOTES PREPARED BY DINO**
15 **ALI**

16

17 THE CHAIR: Mr Bowditch, it is necessary for you to be
18 sworn. Will you take an affirmation or an oath on the
19 Bible?

20

21 MR BOWDITCH: I will take the oath.

22

23 <KEVIN DOUGLAS BOWDITCH, sworn: [12.32pm]

24

25 <EXAMINATION BY MR STEWART:

26

27 MR STEWART: Q. Mr Bowditch, will you state your full
28 name for the record, please?

29 A. Kevin Douglas Bowditch.

30

31 Q. Do you have before you a copy of your statement to the
32 Royal Commission?

33 A. Yes.

34

35 Q. Are there any amendments to that statement that is
36 dated 12 July 2015 that you wish to make?

37 A. I don't think so.

38

39 Q. Do you confirm that the statement is true and correct?

40 A. Probably - the only thing that I can think of, I said
41 in - somewhere - I think it's in my statement, I said I was
42 the chairman of that committee. I wasn't the chairman.
43 I think that's somewhere in there, anyway.

44

45 Q. Mr de Rooy was the chairman; is that right?

46 A. Yes.

47

1 Q. Subject to that, do you confirm the statement?

2 A. Yes.

3

4 MR STEWART: I tender the statement, your Honour.

5

6 THE CHAIR: It will be exhibit 29-010.

7

8 **EXHIBIT #29-010 STATEMENT OF KEVIN DOUGLAS BOWDITCH DATED**
9 **12/07/2015**

10

11 MR STEWART: Q. You were baptised as a Jehovah's Witness
12 in 1974; is that right?

13 A. No, 1964.

14

15 Q. I beg your pardon. You served as an elder in various
16 congregations since the 1970s?

17 A. Yes.

18

19 Q. You were an elder in the Mareeba congregation in the
20 period 1976 to 1994; is that right?

21 A. Yes.

22

23 Q. In that capacity, you served on the judicial committee
24 that considered [BCG]'s allegations of child sexual abuse
25 by her father?

26 A. Yes. Sorry, sir, I'm just having a bit of trouble
27 hearing you. I haven't got real, real good hearing. But
28 I'm okay.

29

30 Q. Any time you don't hear me, you just raise it with me.

31 A. I will.

32

33 THE CHAIR: Q. We can give you a device that will help
34 you here, would you prefer that?

35 A. I wouldn't be used to it, so I will give it a go like
36 this. But just if I ask to repeat something,
37 your Honour --

38

39 Q. If you want a device, you just let us know.

40 A. Okay, thank you.

41

42 MR STEWART: Q. Your statement, at paragraph 1.6, says
43 that from 1994 to the present, you've served as an elder in
44 the Mossman congregation. That's Mossman in Far North
45 Queensland; is that right?

46 A. I was - I was in the Mossman congregation, but I was
47 not an elder from 1994 - that's a mistake on there - 1994

1 to 1998.

2

3 Q. That is recorded there, to be fair, Mr Bowditch, you
4 say "apart from a period from 1994 to 1998" - yes.

5 A. Yes.

6

7 Q. Why were you not an elder in that period?

8 A. Why?

9

10 Q. Yes.

11 A. It was personal reasons, basically stress; it was
12 suggested that I have a rest during that period of time,
13 and I agreed with it.

14

15 Q. In paragraph 2.3 of your statement - it's there in
16 front of you - you say that if a judicial committee - I am
17 talking generally now, not about the specific case of
18 [BCG], I will come to that in a moment. You say that if
19 a judicial committee found a child sexual abuse wrongdoer
20 repentant, he would lose privileges and be reproved; is
21 that right?

22 A. That's point 2.3?

23

24 Q. Yes.

25 A. Yes.

26

27 Q. As I understand the point you are making it is this:
28 if someone is found by a judicial committee to have
29 committed serious wrongdoing, then, essentially, two things
30 might thereafter happen: one, if they show repentance,
31 they will be reproved; if they don't show adequate
32 repentance, they will be disfellowshipped. Is that right?

33 A. That is true.

34

35 Q. Can you explain what are the considerations that you
36 apply, in the judicial committees you have served on, in
37 deciding whether someone has shown repentance or not?

38 A. There is a number of things. True repentance will be
39 shown - are we talking about child molestation, are we
40 using that as a base?

41

42 Q. You can use that as an example, yes.

43 A. Yes, yes. If that was the case, then the person - and
44 every case is different, of course, but the person would
45 need to show the person that they have abused
46 consideration, apologise to that person, show that they in
47 some ways - you know, it's more towards that person than

1 anything else, they would have to show that consideration.

2

3 Q. If they did that sufficiently to the judicial
4 committee's satisfaction, then the person would be reprovved
5 rather than disfellowshipped?

6 A. In some cases.

7

8 Q. Well, are there any factors other than adequate
9 repentance, as you have described it, that a judicial
10 committee will take into consideration in determining
11 whether reprovval or disfellowship is the appropriate
12 remedy?

13 A. Apparent repentance can be more than just words, and
14 a person can use just words, but that may be not enough if
15 the person, over a period of time, has shown that they have
16 a tendency towards doing that - that wrong.

17

18 Q. Is it part of the considerations, in your experience,
19 whether or not other children in the congregation will be
20 at risk?

21 A. Yes.

22

23 Q. How do you apply that to a decision on whether or not
24 to reprove? How is that part of repentance?

25 A. If they - well, you'd have to take that into
26 consideration. If they were going to be a danger to the
27 congregation, they would be removed. Is that what you are
28 asking - or if they stay in the congregation?

29

30 Q. Well, I'm asking how it is you come to a decision
31 about whether to reprove or not and what factors you take
32 into consideration?

33 A. That is one - one factor that is taken into
34 consideration.

35

36 Q. So if you are not satisfied that this person will not
37 offend again, then you won't reprove; you will
38 disfellowship?

39 A. Yes.

40

41 Q. And when a person is disfellowshipped, they then can
42 still attend meetings, and so on, but under some
43 restriction; is that right?

44 A. Under a lot of restrictions.

45

46 Q. And members of the congregation cannot associate with
47 them socially?

1 A. Socially or spiritually.
2
3 Q. But the person is still, otherwise, in the world and
4 can associate with people outside of the church?
5 A. Yes.
6
7 Q. And you don't take into consideration, do you, how
8 people outside of the church might be kept safe from such
9 a person whom you are not satisfied will not reoffend?
10 A. If they were outside the church and they were a close
11 friend, I would tell them.
12
13 Q. How would you know if they were a close friend and
14 outside of the church?
15 A. If they are a close friend of mine.
16
17 Q. A close friend of yours?
18 A. Yes, if I was - if I had associated with them.
19
20 Q. What about people who are not close friends of yours,
21 others outside of the church - you don't take any steps, do
22 you, to protect them from this potential reoffending? You
23 don't, do you? You are concerned with the congregation
24 principally, aren't you?
25 A. Yes, we are concerned with the congregation. We are
26 shepherds of the congregation.
27
28 Q. And you are not a shepherd to those who are not in the
29 congregation?
30 A. No.
31
32 Q. And as an organisation, in your experience, you don't
33 seek to protect or take care of children who are outside of
34 the congregation?
35 A. That's a broad statement.
36
37 Q. Well, I can limit it.
38 A. Yes, limit it, please.
39
40 Q. In your decision on whether or not to disfellowship
41 someone, you don't take consideration of children outside
42 of the congregation?
43 A. We do take consideration of them, but what ability
44 have we got to protect every child in Australia?
45
46 Q. Well, what you can do is you can report to the child
47 protection authorities.

1 A. And that is done in some cases.
2
3 Q. But generally it's not done, is it?
4 A. No.
5
6 Q. It's not done unless there is a legal requirement for
7 it to be done, is it?
8 A. That is true.
9
10 Q. Equally, as a practice, in your experience, judicial
11 committees don't report these serious allegations of sexual
12 abuse to the police unless there is a legal requirement for
13 them to do so?
14 A. That would be true.
15
16 Q. And that's because, within your church, you see
17 yourselves as having the structures to deal with these
18 things internally?
19 A. That is within our church.
20
21 Q. Yes.
22 A. Not outside, yes.
23
24 Q. And your structures are based on first century
25 Christendom as set out in the Bible?
26 A. Yes.
27
28 Q. Turning specifically to the case of [BCG], I would
29 like to show you part of [BCG]'s statement, paragraph 37.
30 While we're waiting for that to come up, perhaps,
31 Mr Bowditch, if you can look at me and we will get to the
32 screen in a moment. Did you listen to or watch [BCG]'s
33 testimony yesterday?
34 A. No.
35
36 Q. Is there a particular reason why you didn't do that?
37 A. I preferred not to, so I could answer any questions
38 truthfully and I wouldn't be just trying to cover what
39 [BCG] said; I'd - I prefer to be truthful and say it from
40 my own point of view.
41
42 Q. To be fair, were you advised that that's an approach
43 you should take?
44 A. No, it's - it was my own choice.
45
46 Q. And I take it, then, you haven't read [BCG]'s
47 statement?

1 A. No.

2

3 Q. So is it the case that you don't know what it is,
4 particularly, that she said here yesterday?

5 A. No.

6

7 Q. Have you read the press overnight, where her statement
8 was reported in some detail?

9 A. No, I didn't read the press.

10

11 Q. Let's look at paragraph 37. So this is what [BCG]
12 said. She said:

13

14 *My father left home some eight or nine*
15 *months after October 1988. Before my*
16 *father left, I tried to talk about the*
17 *abuse --*

18

19 that's the abuse she had suffered from him --

20

21 *to Lyn Bowditch, who was married to one of*
22 *the Elders at the Congregation, Kevin*
23 *Bowditch.*

24

25 I take it your wife is Lyn, is she?

26 A. Yes.

27

28 Q. She says:

29

30 *Kevin was a friend of my father's ...*

31

32 Is that right? Back in 1988 were you a friend of [BCH],
33 that's [BCG]'s father?

34 A. Yes.

35

36 Q. And you had helped build parts of their house; is that
37 right?

38 A. Yes.

39

40 Q. And [BCG] says:

41

42 *I said to Lyn, "I need to talk about some*
43 *stuff that's happened between me and dad".*

44

45 Then she says that her understanding is that Lyn spoke to
46 you. Now, did your wife raise that with you, that [BCG]
47 had said to her that she needs to talk about some stuff

1 that's happened between her and her dad? Do you remember
2 that?
3 A. Yes. That's --
4
5 Q. And did you then send a message back via your wife
6 that you can't speak with her "without your father being
7 present"?
8 A. I would have never said that.
9
10 Q. Why would you have never said that?
11 A. Because that's not me, and what happened after would
12 prove that.
13
14 Q. Of course, at that time, when that was raised with
15 you, I take it you didn't know just what it was that [BCG]
16 wished to raise; is that right? You didn't know how
17 serious it was or what the matter was?
18 A. I didn't know how serious it was, and as she was
19 a young adult, I would have spoken to her anyway.
20
21 Q. You wouldn't have spoken to her with just you and her
22 present, would you?
23 A. No, I would speak to her with somebody else - yes,
24 I would speak to her by herself, but with somebody else,
25 like my wife, in a room that's close or - you know - in an
26 adjoining room.
27
28 Q. Yes, because you are counselled not otherwise to be
29 alone with other women; is that right?
30 A. That's right.
31
32 Q. It is also part of the church's teaching, isn't it,
33 that if a member of the congregation has an issue,
34 a problem with another member, they must take it up with
35 that member first, and only if they can't resolve it must
36 they take it to the elders; is that right?
37 A. Not in all cases.
38
39 Q. If it is a serious wrongdoing, then they should take
40 it up with the elders directly; is that right?
41 A. Yes.
42
43 Q. But if it is not serious, then they should take it up,
44 first, with the person concerned?
45 A. Yes. You are talking about Matthew? The scriptures
46 of Matthew.
47

1 Q. It may be, Mr Bowditch, you have got me there.
2 A. Okay, cool.
3
4 Q. So if you didn't know what it was that [BCG] wished to
5 raise, you therefore didn't know whether it was a very
6 serious matter or not, did you?
7 A. But how could I give advice if I didn't know - that's
8 why I would sit down with a person first.
9
10 Q. Doesn't it stand to reason that you might have said to
11 your wife, "Well, tell her that she must raise it first
12 with her father"?
13 A. It's not in my personality.
14
15 Q. You wouldn't have expected it to be a serious issue,
16 I take it, given your friendship with the father?
17 A. I still would not have said that. I would have let
18 the person talk to me.
19
20 THE CHAIR: Q. Do you say that she's making it up, do
21 you?
22 A. No, I'm not saying that. It's just not --
23
24 Q. Well, she says quite clearly that you said this. Are
25 you saying she is making it up?
26 A. I think she said that my wife said that, your Honour.
27
28 Q. Correct. You are correct. So you say you would never
29 have said that to your wife, do you?
30 A. No, I would never have said that to my wife.
31
32 Q. So your wife, then, has made something up?
33 A. I'm unsure. But I would have never said that to my
34 wife.
35
36 Q. That's what it amounts to, isn't it? I mean, someone
37 has to be telling the truth here?
38 A. Yes.
39
40 Q. And we have to work that out.
41 A. I understand that.
42
43 Q. Well, can you help me?
44 A. I can only say what I said at the time. I can't go
45 beyond that, you know, that's --
46
47 Q. Well, what did you say to your wife?

1 A. I'm unsure, but I wouldn't have said that, because I -
2 I will sit down and I will speak to anyone.
3
4 Q. I will ask you again: what did you say to your wife?
5 A. I am unsure.
6
7 Q. You have no recollection at all of what you said to
8 your wife?
9 A. No.
10
11 Q. Just that you deny saying this?
12 A. Yes, because I know I wouldn't have said that.
13
14 Q. But you can't help me with --
15 A. No.
16
17 Q. -- anything at all as to what you did say?
18 A. No. No. No, your Honour, I'm sorry. It's 26 years
19 ago.
20
21 THE CHAIR: Very well.
22
23 MR STEWART: Q. You served in the judicial committee
24 with your fellow elders, Mr Ali and Mr de Rooy, and you had
25 before you, as it were, an issue concerning [BCH] and his
26 relationship with another woman, not his wife; is that
27 right?
28 A. That is true.
29
30 Q. And whilst you were investigating and considering that
31 matter, the allegations that [BCG] made that she had been
32 abused by her father came to your attention; is that right?
33 A. That is true.
34
35 Q. And by "you" I mean you and the other members of the
36 judicial committee?
37 A. Yes.
38
39 Q. So the --
40 A. Oh, yes.
41
42 Q. So you then, as a judicial committee, investigated
43 those matters, too? In other words --
44 A. Yes.
45
46 Q. -- [BCG]'s matters?
47 A. Yes.

1
2 Q. In a sense, there was a bit of overlap, because there
3 were common families, and so on; is that right?
4 A. Sorry, can you --
5
6 Q. There was some overlap between the issues - that is,
7 the ones concerning [BCH] and the other woman - and
8 [BCH] --
9 A. Yes, there was a lot of overlap at that time. There
10 was, you know, information coming in.
11
12 Q. So you investigated them concurrently?
13 A. Some of it, yes.
14
15 Q. Because, for example, [BCG]'s mother had things to say
16 to you which were relevant to both inquiries?
17 A. That could be the case.
18
19 Q. Did you first conduct a preliminary investigation by
20 two elders and then decide to refer it to the judicial
21 committee, or did you just subsume it into your existing
22 judicial committee?
23 A. I would not be able to remember all the details on
24 that, but, yes, it would have started off with
25 a preliminary investigation.
26
27 Q. Well, it should have, but it seems in this case it
28 probably didn't, that since you already sat on a judicial
29 committee, you just dealt with it - isn't that what
30 happened?
31 A. It could have been the case, because the evidence was
32 there. Not the evidence of [BCG], but the other evidence
33 that was there, with [BCH].
34
35 Q. During your meetings, you required [BCG] and [BCH] to
36 attend at the same time, and you required [BCG] to put her
37 allegations to her father in his presence; is that right?
38 A. [BCH] was in the meeting. [BCG] wanted to put the
39 allegations to [BCH]. Sorry, I'm just being careful.
40
41 Q. You seem to be reading from something. What are you
42 reading from?
43 A. I've just got the [BCG] and the [BCH] in my notes, so
44 I don't get mixed up there.
45
46 Q. Perhaps you can put your handwritten notes to one
47 side. There is a list there which --

1 A. Oh, okay.
2
3 Q. It will be shown to you, so you can see the people's
4 names. Of course, thank you for attempting to avoid saying
5 people's names. So you say [BCH] was in the meeting, and
6 [BCG] was also in the meeting; is that right?
7 A. For a period of time.
8
9 Q. For a period of time. And it's the practice to
10 require someone - or it was the practice then to require
11 someone - who made allegations about someone else to make
12 them directly to the person; is that right?
13 A. It was a practice, but at the same time - can
14 I qualify?
15
16 Q. Yes, of course.
17 A. At the same time, if a person was to be able to face
18 their accuser, quite often that was the start of a healing
19 practice.
20
21 Q. So I understand you to be saying that it was
22 a justification for that requirement that the accuser faces
23 the accused - because it can have a healing component to
24 it, or healing result?
25 A. That was one reason, yes.
26
27 Q. And do you understand that to be a justification for
28 that rule that existed that required an accuser to put an
29 accusation to the accused?
30 A. That was what the accused - sorry, that is what [BCG]
31 was - wanted to do at that time.
32
33 Q. You say she would have wanted to do it. She didn't
34 ask to have her father present so that she could confront
35 him with the allegations, did she?
36 A. I can't remember that.
37
38 Q. She was presented with a process which included having
39 her father in a meeting that she then had to - if she was
40 to pursue her allegations, she had to make them in that
41 meeting to her father; that's right, isn't it?
42 A. We would have pursued the allegations anyway.
43
44 Q. Do you see in your paragraph 4.8 - perhaps we can call
45 that up --
46 A. 4.8?
47

1 Q. It should be on the screen?

2 A. Yes, I have got it.

3

4 Q. You will see you say in your statement:

5

6 *The judicial committee informed [BCH] of*
7 *the allegations but he strongly denied them*
8 *at first and was quite verbally aggressive*
9 *towards [BCG]. At the committee meeting*
10 *hearing I recall his body language was*
11 *physically threatening and [BCG] appeared*
12 *frightened of him.*

13

14 You will accept, of course, that for that young woman,
15 17 at that time, having suffered, as she did, at the hands
16 of her father, that was a traumatising experience to face
17 that, wasn't it?

18 A. It would have been.

19

20 Q. And it wasn't conducive to arriving at the truth, was
21 it?

22 A. It didn't arrive at the truth at that time.

23

24 Q. But to have a process like that, where the victim of
25 the abuse has to face the abuser and put the accusations to
26 him is not conducive to arriving at the truth, is it,
27 because she feels silenced by his presence and frightened
28 of him - don't you see that?

29 A. That is - that is true. She would have felt
30 frightened of him, but at the same time, there was three
31 people, three men that knew her quite well, she had grown
32 up around, and we were there to protect her, anyway, from
33 her father.

34

35 Q. You accept that what she was being required to do was
36 to speak about very personal and intimate matters about
37 sexual contact by her father - you accept that?

38 A. In front of her father?

39

40 Q. Well, in front of you and your two colleagues as well.

41 A. She didn't have to go into detail.

42

43 Q. Well, how is she going to bring home her allegations
44 and have you accept them if she doesn't detail what they
45 are?

46 A. The allegations were as far as she wanted to go with
47 the detail.

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Q. Perhaps they were as far as she was able to go within the circumstances of your hearing?

A. I believe that.

Q. Because let's have a look, since you don't know - let's have a look at what she said about this --

THE CHAIR: I think we might come back to that after lunch.

LUNCHEON ADJOURNMENT

MR STEWART: Q. Can we have paragraph 42 of BCG's statement on the screen. You see this is what BCG says. She says she remembers meeting with the elders - you, Mr De Rooy and Mr Ali - by herself on a number of occasions for a couple of hours at a time. On one occasion you brought her father into the room so that she could tell him what she had told the elders. She can't recall exactly how many times she had to meet with the elders. She didn't want to be there, she felt so uncomfortable. She says:

I had nobody to support me, I don't remember anyone really explaining the purpose of the Committee Meetings to me, but I understood at the time that the Elders were investigating what I had alleged.

Then if we look over the next page, perhaps you can read paragraph 43 to yourself. Then you see in paragraph 44 she says:

Because the Elders were all male, and all were friends of my father's, I was reluctant to speak to them about what had happened. Unless they asked me a direct question, I didn't really offer the full detail of the sexual abuse.

So you'll appreciate the constraints BCG felt under about being able to speak freely?

A. Yeah, I can understand that.

Q. I think in your statement you recognise that, in the sense that you say the story came out in bits over time; is

1 that right?

2 A. Yes.

3

4 Q. Do you appreciate that a process where the victim has
5 to put her allegations to the accused in front of a number
6 of men is not one that is conducive to arriving at the full
7 story?

8 A. I can understand that, and I felt for her then and I'm
9 still feeling for her now.

10

11 Q. It's not a good process, is it?

12 A. It could be better. I think that's what we're all
13 trying to arrive at here, is processes that are better for
14 ones that are victims.

15

16 Q. So if we might identify the respects in which it might
17 be made better: firstly, that a person raising sexual
18 abuse allegations have someone with her to support her if
19 she should want it. That would be an improvement, wouldn't
20 it?

21 A. Yes.

22

23 Q. And that she not be required to put those allegations
24 in the presence of her alleged abuser?

25 A. Yes.

26

27 Q. And that she not be required to put it to a committee
28 of three men - that would improve it, wouldn't it?

29 A. Sorry?

30

31 Q. That would improve the process, wouldn't it?

32 A. Yes, I - the committee of three has got a purpose,
33 because every one of us will hear different things, and
34 it's to make sure that we get to the truth as much as we
35 can.

36

37 Q. Well, what [BCG] is really saying here is that she
38 felt unable to tell the whole truth, in part because she
39 was having to say these intimate things to three elders who
40 were friends of her father - that was hard for her.

41 A. At that time, we thought that he was a disgusting man.
42 We believed her 100 per cent and we just wanted to see him
43 out of the congregation.

44

45 THE CHAIR: Q. Mr Bowditch that's not the point of the
46 question.

47 A. Oh, sorry.

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Q. The point of the question is that the process you engaged in required this young woman to disclose intimate details about what her father did to her sexually - to three men, each of whom was a friend of her father. Now, do you not understand the difficulty that a young woman would have --

A. Yes.

Q. -- disclosing personal sexual details to three men?

A. Yes, I understand that, your Honour.

Q. Is it appropriate that your processes require that to happen?

A. I understand that, your Honour.

Q. Is it appropriate?

A. Is it appropriate? Probably could be a better way of doing it.

Q. What's the better way?

A. I'm unsure of that.

Q. You do understand, I assume, how difficult it would be for a young woman to speak in those circumstances?

A. Yes, your Honour.

MR STEWART: Q. Can you look at paragraph 5.1 of your statement at page 0004 on Ringtail?

A. Sorry, what was the number again?

Q. Paragraph 5.1 of your statement.

A. Yes.

Q. You'll see under the heading, "The decision of the Elders in the Mareeba Congregation to disfellowship [BCH] in 1989 and the reasons for that decision", you say:

The decision to disfellowship... was based on his immoral relationship with another woman and leaving his wife and family, and his lying about this to the elders. I recall also that we felt the sexual abuse had been established. The appeal committee confirmed the decision to disfellowship him. Both committees found that he was unrepentant.

1
2 Now, in fact, you did accept, in the sense you believed
3 [BCG]'s allegations about her father, didn't you?
4 A. Can you repeat that, sorry?
5
6 Q. You personally - you believed what [BCG] told you
7 about her father?
8 A. I believed it right from the start.
9
10 Q. And is it right that her father admitted those
11 allegations in the presence of the committee eventually?
12 A. In the presence of the appeals committee.
13
14 Q. You say that in a paragraph I'll come to in a moment
15 but dealing first with the judicial committee, did he not
16 admit it in the presence of the judicial committee?
17 A. Not to my recollection, no.
18
19 Q. Take a look at tab 3 of the tender bundle. Perhaps we
20 can scroll down and show you the foot of that page as well,
21 the end of the document. It's just a one-page document.
22 Do you see it has your name, and I take it that's your
23 signature, is it?
24 A. Yes, my signature's on top there.
25
26 Q. And this is the report of the judicial committee back
27 to the branch office on the disfellowshipping of [BCH]; is
28 that right?
29 A. Yes.
30
31 Q. When last did you have the opportunity to look at this
32 document, Mr Bowditch?
33 A. Probably 26 years ago.
34
35 Q. You haven't seen it in the last few days or few weeks?
36 A. No.
37
38 Q. Let's scroll to the top. I'd like you to read it to
39 yourself, and at the end of it see if you agree that
40 there's nothing in there about [BCG]'s allegations about
41 her father.
42 A. No.
43
44 Q. Now, what did you - by which I mean what did the
45 judicial committee - decide with regard to [BCG]'s
46 allegations?
47 A. With putting it in this document?

1
2 Q. Well, it's not in the document.
3 A. No.
4
5 Q. So I'm asking you what conclusion did you reach with
6 regard to the allegations that [BCG] made and which you
7 investigated?
8 A. We believed [BCG] from the very start. We never
9 believed [BCH] I think it is.
10
11 Q. Her father?
12 A. Yes. We never, ever believed him and that's why we
13 pushed, if you want, you know - that's why we tried so hard
14 to get him removed from the congregation.
15
16 Q. And you removed him on these grounds of loose conduct
17 and lying?
18 A. Yes.
19
20 Q. Related to his relationship with another woman?
21 A. And, also, that lying - I'm not real sure now, because
22 I cannot remember the total details of that, but I think
23 that lying would have come in with the allegations about
24 [BCG].
25
26 Q. On the scale on which you deal with these things, how
27 do you compare the seriousness of sexual abuse allegations,
28 on the one hand, compared with the pursuit of an adulterous
29 relationship, on the other?
30 A. My personal opinion right now is I would consider that
31 the - any abuse is going to affect the person - I'm just
32 trying to think of a better word.
33
34 Q. It's far more serious, isn't it?
35 A. Oh, yes.
36
37 Q. It's a criminal offence, to start with, sexual abuse -
38 child sexual abuse is a criminal offence?
39 A. Yes, yes.
40
41 Q. And back then, in 1989, you would have had that same
42 view, I take it? You would have regarded --
43 A. With a passion.
44
45 Q. -- sexual abuse of a daughter by a father, firstly,
46 very seriously?
47 A. I've got a daughter of my own around the same age, so

1 yes.

2

3 Q. And more seriously than the pursuit of an adulterous
4 relationship by someone?

5 A. Personally, that is my opinion. The Bible would state
6 it as bad as, if not worse.

7

8 Q. In reaching a decision, you and your colleagues on the
9 judicial committee, I suppose, were applying the Bible
10 standards, were you?

11 A. Can I just have that again, please?

12

13 Q. In reaching a decision on the judicial committee on
14 these matters that were before you, were you applying the
15 Bible's standards as to the respective seriousness of the
16 two different sets of allegations?

17 A. We were applying the Bible standards at that time.

18

19 Q. In other words, you were regarding the sexual abuse
20 allegations as being of the same degree of seriousness, or
21 perhaps less than, the allegations of the adulterous
22 relationship?

23 A. Definitely not.

24

25 Q. Well, if that's so, how do you explain that this
26 report doesn't mention anything about the sexual abuse
27 allegations?

28 A. I'm unsure on that.

29

30 Q. And, at that stage, in other words, when you reached
31 your decision, you also knew, did you not, that the elder
32 daughter had said that she had also been abused by her
33 father?

34 A. I can't remember that at that stage. I'm not - you
35 know, I'm not trying to skirt around it.

36

37 Q. So it may have been like that?

38 A. I'm unsure.

39

40 Q. And that the mother had reported that the two younger
41 daughters, who, at this time, 1989, were still quite young,
42 had also been abused by the father?

43 A. I don't remember that.

44

45 Q. Was the problem for you here that you somehow regarded
46 the two-witness rule as applying and you didn't have a
47 second witness of the actual events?

1 A. That wasn't the case.
2
3 Q. Well, what would appear to be the case is that you
4 didn't uphold the sexual abuse allegations. Are you able
5 to explain why not? Why is there not a finding recorded
6 here by your judicial committee that [BCG] had been abused
7 by her father?
8 A. I'm unsure, but I would rather guess, because he was
9 not admitting to it at that time, that I'm unsure.
10
11 Q. You say that's a guess?
12 A. I beg your pardon.
13
14 Q. You say that is a guess?
15 A. I'm not saying for sure, yes.
16
17 MR STEWART: No more questions, your Honour.
18
19 THE CHAIR: Q. You say that although it may have been
20 that he wasn't admitting to it at the time, you've said a
21 number of times that you always believed [BCG]?
22 A. Yes.
23
24 Q. Why wasn't that enough to found a decision to
25 disfellowship?
26 A. On those grounds?
27
28 Q. Yes.
29 A. I am unsure, and I don't know why we didn't put that
30 in there, but, at the same time, he was being
31 disfellowshipped.
32
33 Q. Yes, but you understand that for [BCG], the trauma of
34 having been abused and then the traumatic experience of
35 being interviewed by the three of you, having to confront
36 her father, and then the decision that you make paying no
37 regard, as recorded, to what she went through and the
38 process of your committee - do you understand that, in
39 itself --
40 A. Yes.
41
42 Q. -- was an extraordinarily negative thing for her to
43 receive?
44 A. I can understand that, yes.
45
46 Q. Can you give me any explanation as to why you let that
47 happen?

1 A. I cannot give you any explanation. I honestly cannot.
2 [REDACTED] - sorry - [BCG] - sorry, that's thrown me.
3
4 Q. It was cut, everyone understands that.
5 A. Yeah. I personally done everything I could, after the
6 event, to support [BCG].
7
8 Q. But you left this very important step out?
9 A. Yes.
10
11 THE CHAIR: Does anyone else have any questions?
12
13 MS DAVID: Yes, your Honour.
14
15 <EXAMINATION BY MS DAVID:
16
17 MS DAVID: Q. My name is Ms David and I represent [BCG]
18 at this hearing?
19 A. Sorry, I am having trouble.
20
21 Q. My name is David and --
22
23 THE CHAIR: Maybe move that microphone, so your voice --
24
25 MS DAVID: Q. My name is David and I'm representing
26 [BCG] at this hearing. I just have a few questions for
27 you.
28 A. Okay, thank you.
29
30 Q. Just on the point - because the allegation was not
31 substantiated under your judicial committee proceeding, do
32 you agree that, therefore, it was not known within the
33 congregation that, in fact, [BCH] had been what was known
34 to have actually abused his daughter sexually?
35 A. Just clarify that a little bit and I will give you the
36 truthful answer.
37
38 Q. If you go to your statement, please go to your
39 statement.
40 A. What page?
41
42 Q. It's 8.1.
43
44 MR STEWART: Page 4.
45
46 MS DAVID: Q. Do you agree - you've stated in your
47 evidence that the reasons for [BCH]'s disfellowshipping as

1 we have established, had nothing to do with the allegations
2 from [BCG]?
3 A. So what it's saying is the congregation or the
4 committee, right, informed [REDACTED] of what he was being
5 disfellowshipped for.
6
7 Q. We'll just refer to [BCH].
8 A. Yep.
9
10 Q. Firstly, I'll just go back?
11 A. Sorry.
12
13 Q. I may have confused you, but do you agree that there
14 was no information passed on to any member of the
15 congregation that [BCH] had, in fact, sexually abused his
16 daughter, because isn't it the case that that wasn't a
17 finding that came from your judicial committee?
18 A. And the finding wouldn't have been stated from the
19 platform, but, at the same time, those that were caring for
20 [BCG] at that time would have been informed that she needed
21 help and protection and love, care, whatever - shepherding.
22
23 Q. But what I want to suggest to you is that the fact
24 that it was not acknowledged within the congregation -
25 because there were no findings against [BCH], it was never
26 acknowledged within the congregation that [BCH] was, in
27 fact, a child abuser - that it exposed [BCG] to the
28 suggestion that she was, in fact, a liar?
29 A. I can't even see how that would have come up, and I'm
30 not trying to be evasive either. I'm just trying to work
31 with you. There were seven - there's usually about seven
32 days between a judicial committee and an appeals committee.
33 That appeals committee, I believe, upheld the decision of
34 the judicial committee and, also - and that is where he
35 admitted in front of the appeals committee of a
36 molestation, and so that would have been added at that
37 time.
38
39 Q. But that information is not ever released within the
40 congregation, is it?
41 A. No.
42
43 Q. No. So, therefore, do you agree that the process - by
44 keeping it in-house, your processes do not enable a measure
45 of protection to be put in place to protect people from the
46 likes of [BCH]?
47 A. The protection was he was - you know, if you're

1 talking about that particular case, he was no longer in the
2 congregation.
3
4 Q. But he went to another congregation, didn't he?
5 A. Yes.
6
7 Q. And that information wasn't passed on, was it?
8 A. I don't know, because I wasn't there at that time.
9
10 Q. So he was left out there in the community, wasn't he?
11 A. Yes.
12
13 Q. Just coming back to [BCG], you did take her in at some
14 point, didn't you?
15 A. Yes.
16
17 Q. You looked after her. I want to suggest to you it was
18 close to the wedding - in fact, no more than a couple of
19 weeks before the wedding that she actually moved in with
20 you and your family?
21 A. I wouldn't - I wouldn't have any idea. I tried to
22 work that out, but I really --
23
24 Q. Before that, you did assist with her and you were
25 helpful in organising for her to stay with another family,
26 the Grigors?
27 A. Yes.
28
29 Q. But that wasn't immediate, was it. I want to suggest
30 to you that it wasn't immediate after the committee
31 meetings; it was actually some months before any measure
32 was put in place to put her in a housing situation that
33 protected her?
34 A. I'm unsure of that now.
35
36 Q. What I'm suggesting to you is that for some months she
37 was exposed to her father coming back into the house that
38 she had been living in with her mother and the rest of her
39 family?
40 A. I have no recollection of that, because my
41 recollection is the father moved away pretty well straight
42 away.
43
44 Q. Are you aware from your knowledge within the community
45 that there were attempts at reconciliation between [BCH] -
46 [BCG]'s mother and father, and that he returned to the
47 community on a number of occasions?

1 A. No. I have no recollection of it anyway.
2
3 Q. But you're not disagreeing that it couldn't have
4 happened [*sic*]?
5 A. I beg your pardon?
6
7 Q. You're not disagreeing that it happened?
8 A. No, I'm not disagreeing. I really just don't know,
9 sorry.
10
11 Q. So, in reality, she was very exposed, wasn't she,
12 [BCG], to a man that you observed to be quite violent, even
13 an aggressive sort of a man. You observed him to have a
14 violent nature even within the committee process, didn't
15 you?
16 A. Yes, in the committee process. That's why we told him
17 to back off.
18
19 Q. But you had some measure of control within that
20 process, because there were a number of men there who may
21 have been able to protect her - you agree with that?
22 A. Yes.
23
24 Q. But outside of that committee process, there was no
25 such protection afforded her, was there?
26 A. I know [BCG] stayed with at least one other family,
27 but I thought there was other families as well, but I can't
28 confirm that.
29
30 Q. In this particular case, given that you are dealing
31 with a man whom you've described as "disgusting" and who
32 you knew to have a violent predisposition from your own
33 observations, wouldn't that have been the very particular
34 case that you might have thought would be appropriate to
35 send to the police, to notify the police, to ensure that
36 [BCG] was protected?
37 A. I agree with that, but at the same time, there were
38 discussions about that very point with [BCG], and you've
39 got to realise - maybe if I explain the situation to you,
40 can I do that?
41
42 Q. Yes.
43 A. Here you have a gracious young lady who was about to
44 get married to a young man, and there was - and she wanted
45 to get on with her life, okay? And I guess, for that
46 reason, even though that was spoken about with her, and she
47 spoke about it with me, going to the police, we said that

1 was a decision - I said that was a decision that she would
2 have to make herself.
3
4 Q. Is that a decision she was actively dissuaded from
5 doing?
6 A. Sorry?
7
8 Q. Her going to the police - she was dissuaded from going
9 to the police by you and other elders, wasn't she?
10 A. Never by me - never.
11
12 Q. But you're not aware --
13 A. I'd never do that.
14
15 Q. -- of other elders. But wouldn't you think that by
16 going to the police or some other organisation, they would
17 be sensitive to this, as you describe her, gracious young
18 lady, sensitive to her needs and deal with it appropriately
19 to protect her?
20 A. That could be the case.
21
22 Q. Were you aware of her suicide attempts?
23 A. No.
24
25 Q. You had no involvement in that?
26 A. No.
27
28 Q. Did you take any steps to ensure that she had proper
29 counselling to deal with the distress of her experience at
30 being abused?
31 A. You mean outside involvement?
32
33 Q. Firstly, outside involvement, yes, outside of the
34 congregation?
35 A. Did I personally take her somewhere?
36
37 Q. Did you take any steps to encourage her to seek
38 counselling outside the congregation?
39 A. I can't remember if I did or not, but it would be
40 something that I would normally do.
41
42 Q. But you --
43
44 THE CHAIR: Q. Is there any inhibition on a member of
45 the Jehovah's Witnesses seeking professional counselling
46 from someone who is not a Jehovah's Witness?
47 A. No.

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Q. Is there any inhibition on you as a member or an elder encouraging someone to go to outside professional help?

A. No. I can - I've just got to be careful how I say this. There are people in the congregation who have got outside help, and it's even encouraged in our magazines - one this year - for that sort of thing.

MS DAVID: Q. You said, I think, before, that you would normally do something like that. Have you ever done that in a situation where you have been faced with a person who has made an allegation of sexual abuse?

A. Not an allegation of sexual abuse have I encouraged somebody, but I have on other matters.

Q. I just want to ask you this briefly: it is the practice within the congregation, isn't it, that a child must be obedient to her father?

A. There's limitations on that.

Q. That is the rule, isn't it?

A. There are limitations on that. You know, that's not for everything. Like, if the father told her to steal a lolly out of a shop - I know this is different, but it just brings something - that child is not to be obedient to their parents. There's a higher - does that make sense?

Q. But the person primarily responsible for the disciplining of a child is clearly the father in the family, isn't it?

A. Parents.

Q. But, in particular, in the Jehovah's Witness faith, it is the father?

A. The father has a responsibility, but the parents work with that together.

Q. But you would expect, wouldn't you, if a young woman had something to say about her father - you would expect her to go and talk that out with her father, wouldn't you? As in this case, what I'm suggesting to you is that [BCG] - you, at the time, expected that [BCG] confront her father and speak to her father about all the allegations?

A. No, I didn't expect that.

Q. And that no-one would listen to her in the absence of her being confronted by her father within a very short

1 period of time?
2 A. I don't - I understand the first part of that, but
3 I just don't understand the second part.
4
5 Q. Well, the committee process involved the accuser
6 facing the person she's accusing, didn't it?
7 A. Mmm.
8
9 Q. And that's what you would expect. That's what your
10 faith expects, isn't it, of a young woman, that she must
11 confront the accuser?
12 A. She doesn't have to - and particularly now, because
13 this is changing, right?
14
15 Q. But, at the time, that was the case and that's how the
16 procedures occurred?
17 A. Yes, and as much as anything, that was for a healing
18 process, and I think even the law of the land understood
19 that at the time - it was for a healing process so she
20 could get it out and tell the person that had carried out
21 this vile act against them.
22
23 Q. But the healing process would also involve, would it
24 not, the receipt of an apology - wouldn't it?
25 A. There was no --
26
27 Q. The apology is a big part of the healing process?
28 A. Yes, I agree with that.
29
30 Q. And that never occurred, did it, throughout that
31 committee process?
32 A. No.
33
34 Q. And it never occurred at any time, did it?
35 A. No.
36
37 Q. And she was never told, was she, at any time that, in
38 fact, the committee believed her 100 per cent?
39 A. I told her.
40
41 Q. I'm suggesting neither you nor anyone else ever told
42 her that she was believed?
43 A. I told her.
44
45 Q. And I'm suggesting that, in fact, all she was told was
46 that because of the manner in which you needed to prove an
47 allegation, with at least two additional statements or

1 eyewitnesses, that you were not able to take the matter
2 further?
3 A. I've never said that.
4
5 Q. No, I'm saying that that was your procedure at the
6 time, wasn't it, that you needed the additional witnesses?
7 You believed that you needed to have two statements, at
8 least, to corroborate what she had said?
9 A. Two people? Just what are you saying there? You
10 know --
11
12 Q. What I'm suggesting to you is that the only thing that
13 she was told was that, because there were no witnesses to
14 corroborate what she had said, that you couldn't take any
15 action in relation to the abuse upon her?
16 A. We were taking action.
17
18 Q. But not in relation to her abuse. You were taking
19 action in relation to those other matters?
20 A. And that as well.
21
22 Q. Did you arrange for her to have any sister from the
23 congregation or someone to give her - to assist her and
24 support her through this process?
25 A. There was a number of sisters in the congregation that
26 supported her.
27
28 Q. She was never referred to any of the sisters, was she,
29 for support or scriptural guidance?
30 A. There were sisters that were informed that [REDACTED]
31 needed support.
32
33 Q. She was never referred to any of those sisters, was
34 she? There was no specific referral to any of the sisters
35 for her to have spiritual or other guidance within the
36 community, was there?
37 A. Not that I can remember.
38
39 MS DAVID: Thank you.
40
41 <EXAMINATION BY MR COYNE:
42
43 MR COYNE: My name is Mr Coyne and I represent Mr Bowditch
44 and others.
45
46 Q. Mr Bowditch, in 1989, how long had you known [BCG]?
47 A. Around 12 years or so.

1
2 Q. And how well did you know her at that time?
3 A. I knew her quite well - not as well as my own
4 children, but quite well.
5
6 Q. Was she a friend of your children back then?
7 A. Yes.
8
9 Q. Back in 1989, [BCG] was engaged?
10 A. Beg your pardon?
11
12 Q. [BCG] was engaged back in 1989?
13 A. Yes.
14
15 Q. Did you know her fiance?
16 A. Yes.
17
18 Q. How well did you know him?
19 A. Probably not as well as [BCG], but I knew him well.
20
21 Q. Did [BCG]'s fiance have anything to do with supporting
22 her during the judicial committee and appeal process?
23 A. He was there with her at one period - not in the
24 actual room, but he was there at the Kingdom Hall.
25
26 Q. The appeal committee was in July 1989. You've given
27 evidence that you tried to support [BCG] after that time;
28 is that correct?
29 A. Yes.
30
31 Q. How did you do that?
32 A. In a number of ways. This was done by, first of all,
33 the sisters, or some of the sisters, in the congregation
34 were told that she needed support, tried to find her --
35
36 Q. Let me stop you there. Who were they? Have you got
37 any names?
38 A. Yes, I can tell you some. Am I allowed to say their
39 name?
40
41 THE CHAIR: Q. Perhaps you can just write them down.
42 A. Okay.
43
44 MR COYNE: Your Honour, is the process then to tender that
45 document?
46
47 THE CHAIR: You can look at it and see what you want to do

1 with it. I'm not sure for our purposes we need the names
2 at all, but if you've got a different purpose --
3
4 MR COYNE: No, I don't.
5
6 Q. We'll move on from that. Aside from the sisters, what
7 else did you do to support [BCG]?
8 A. Well, getting close to the wedding, and [REDACTED] -
9 sorry, I'm not used to calling people by code - [BCG] was a
10 young lady who was out of home, so we supported her with
11 whatever we could for that wedding. We supported her and
12 [BCG] asked me would I - not take the place of her father,
13 but would I give her away at the wedding.
14
15 Q. And you did that?
16 A. And I did that, yes.
17
18 Q. If I could just show you two documents.
19
20 MR COYNE: Your Honour, I intend to tender these documents
21 and my friend has copies of them and has seen them.
22
23 MR STEWART: Your Honour will see they are photographs,
24 and we will ask for a non publication in relation to them,
25 because there is no need for - and they identify people.
26 We will prepare an order in due course, your Honour.
27
28 THE CHAIR: The purpose is to demonstrate that Mr Bowditch
29 gave [BCG] away?
30
31 MR COYNE: And was supporting her in November 1989.
32
33 THE CHAIR: Is November 1989 the wedding time?
34
35 MR COYNE: Yes.
36
37 THE CHAIR: We know that already.
38
39 MR COYNE: Yes.
40
41 THE CHAIR: Do we need photographs? There are two
42 photographs that are clearly wedding photographs.
43
44 MR COYNE: Yes.
45
46 THE CHAIR: I don't think we need those.
47

1 MR COYNE: Okay. I concede that, your Honour.
2
3 THE CHAIR: We'll hand them back.
4
5 MR COYNE: Thank you.
6
7 Q. Mr Bowditch, you did give [BCG] away at the wedding?
8 A. Yes.
9
10 Q. You used your vehicle as the wedding vehicle?
11 A. Yes - yes.
12
13 Q. Did your wife assist at all in relation to the
14 wedding?
15 A. Yes, my wife is a seamstress and I believe she made
16 the dresses for the two young girls. We were also involved
17 in the planning for that. The congregation, along with the
18 family - our family - provided much of the food for that,
19 and any other support - entertainment - that was provided
20 by the congregation as well. So there was support all
21 round.
22
23 Q. Thank you. Did you assist [BCG] and her husband after
24 the wedding, as far as somewhere to live?
25 A. Yes, we did. I can't say whether it was straight
26 after or not, but they were given the use of the flat at
27 the back of the Kingdom Hall.
28
29 Q. Yes.
30 A. Which is a little bit unusual, because that's usually
31 reserved for one of the elders, ministers, or a retired
32 missionary, but it was given to them so that they could
33 use --
34
35 Q. How long did they live there?
36 A. A couple of years I think.
37
38 MR COYNE: Thank you.
39
40 MR STEWART: I have nothing further, your Honour.
41
42 THE CHAIR: Mr Stewart, I think [BCG] just wants to --
43
44 MS DAVID: If I could just raise one matter.
45
46 <EXAMINATION BY MS DAVID:
47

1 MS DAVID: Q. Just in relation to the supply of the
2 house, [BCG] and her husband actually paid for that --
3 A. Yes.

4
5 Q. -- as anybody else would. It wasn't given to her at
6 all, was it?

7 A. No, it wasn't. They paid rent there.

8
9 Q. Yes, so they rented it? It was rental accommodation
10 for which they paid?

11 A. Yes.

12
13 MR STEWART: I have nothing further for Mr Bowditch,
14 your Honour.

15
16 THE CHAIR: Thank you, Mr Bowditch, that concludes your
17 evidence. You're excused.

18
19 **<THE WITNESS WITHDREW**

20
21 MR STEWART: Your Honour, the next witness is
22 Mr Jason Davies. He is to give evidence via video link
23 from Queensland. I am advised by those who handle the
24 technology that they need a couple of minutes to make it
25 work.

26
27 THE CHAIR: We'll take a brief adjournment. Let us know
28 when you're ready.

29
30 **SHORT ADJOURNMENT**

31
32 MR STEWART: Your Honour, Mr Jason Davies, wearing the
33 purple tie, is on the screen, and he's accompanied by a
34 legal representative who will announce himself to
35 your Honour.

36
37 MR B I McMILLAN: Good afternoon. May it please the
38 Royal Commission, my name is McMillan, initials B I. I'm a
39 barrister instructed by the Crown Law Office of Queensland.
40 I appear for the State of Queensland and Mr Jason Davies.
41 I understand that the State of Queensland has previously
42 been granted leave to appear in this case study.

43
44 THE CHAIR: That's so, so you have leave to appear. It's
45 Mr Davies, is it?

46
47 MR DAVIES: Yes, your Honour.

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THE CHAIR: You'll need to be sworn. Do you want to be sworn or take an affirmation?

MR DAVIES: Affirmation, please.

<JASON PETER DAVIES, affirmed: [3.04pm]

<EXAMINATION BY MR STEWART:

MR STEWART: Q. Mr Davies, would you state your full name for the record, please?

A. Jason Peter Davies.

Q. Mr Davies, do you have with you two statements by you, provided to the Royal Commission, one dated 8 July 2015 and the other dated 20 July 2015?

A. I have my two statements, yes.

Q. Is there any respect in which you would like to correct or amend the statements?

A. No.

Q. Do you confirm them to be true and correct?

A. I do.

MR STEWART: I tender the statements, your Honour.

THE CHAIR: The first one will be exhibit 29-011, the one of 8 July and the second one, exhibit 29-012.

EXHIBIT #29-011 STATEMENT OF JASON PETER DAVIES DATED 8/07/2015

EXHIBIT #29-012 STATEMENT OF JASON PETER DAVIES DATED 8/07/2015

MR STEWART: Q. Mr Davies, you are presently employed as the principal legal officer for the Department of Education and Training for the State of Queensland; is that right?

A. Yes.

Q. You are a barrister admitted to practise in Queensland?

A. Yes.

Q. You have been since September 1998?

1 A. That's correct.
2
3 Q. As I understand it, prior to commencing your present
4 role, you were a legal officer at the Office of the
5 Director of Public Prosecutions?
6 A. Yes.
7
8 Q. You were in that position from August 1999
9 until August 2003?
10 A. Yes.
11
12 Q. Was it in that capacity that you came to handle the
13 prosecution against the person known in these proceedings
14 as [BCH] for offences in relation to the abuse of his
15 daughter, [BCG]?
16 A. Yes.
17
18 Q. Can you explain when in the criminal proceedings you
19 became involved?
20 A. I was a case lawyer in the office of Director of
21 Public Prosecutions. I worked in what was known then as
22 the committals work group in Brisbane. The committals work
23 group handled committal matters conducted in the Brisbane
24 Magistrates Court, and I took over a particular cipher
25 within the committals work group. The cipher was known as
26 "CPA" which is a designation they give a particular
27 position. The lawyer before me in that position was
28 Belinda Merrin who is now a prosecutor. I took over her
29 files and one of those files was one involving the people
30 you mentioned. At that point in time the proceeding was a
31 part-heard committal - I think two days had already been
32 heard in the matter, and I had about one day to go to
33 conduct the committal. And that's really the context in
34 which I came into contact with the matter.
35
36 Q. And thereafter did you have the conduct of the matter
37 in its preparation for trial in the District Court?
38 A. Yes, which - sorry.
39
40 Q. You finish.
41 A. Which entailed simply preparing a precis, which is
42 described as a schedule of facts, and the material for the
43 prosecutor, preparing the indictment and attending to the
44 instructions for the presentation of the indictment.
45
46 Q. So is it the case that you didn't personally prosecute
47 the matter?

1 A. No.

2

3 Q. Now, were you involved in the capacity you've
4 described right through the case until ultimately
5 conviction and sentence?

6 A. No. I was involved, from memory - really the way it
7 worked in the Office of the DPP was you would - in terms of
8 being a preparation officer, you would be responsible for a
9 file - really, you'd have core responsibility for the file
10 until the indictment was presented. Then, in effect, the
11 file would move then - it would sit in your cupboard until
12 it was allocated to a prosecutor, and then the prosecutor
13 effectively would take carriage of the matter. They would
14 have a clerk who would assist them, from the office. They
15 would mainly rely upon that clerk and police officers until
16 the matter was resolved. They'd only come back to the case
17 lawyer, really, if there was something specifically they
18 wanted the case lawyer to do. I don't recall, for example,
19 in the remaining time that I worked at the Office of the
20 DPP, anybody coming back to me specifically about this
21 matter, except, I think, to advise me of the outcome of the
22 voir dire in relation to the first trial.

23

24 Q. What were you advised in that regard?

25 A. It was in relation to the admissibility of some
26 inculpatory statements made by the accused. I'd formed the
27 view that we might have some difficulty in relation to that
28 and I was advised subsequently that they'd been excluded on
29 voir dire. That's what I recall, anyway.

30

31 Q. I understand from other evidence that there were three
32 trials - the first resulted in a hung jury, the second a
33 mistrial, and then the third a conviction on a number of
34 counts. Is it the case that those outcomes were not
35 reported to you over time?

36 A. No.

37

38 Q. The schedule of facts that you've spoken of, do you
39 have a copy of it with you by any chance?

40 A. I do.

41

42 Q. We have it here. It's at tender bundle tab 37. The
43 form in which you have it, Mr Davies, does it have a
44 Ringtail reference in the top right-hand corner?

45 A. It does.

46

47 Q. Can you identify the reference of the document you're

1 look at?

2 A. It says QLD.0068.001.1267.

3

4 Q. There is a statement in that schedule of facts in
5 capital letters in the middle column, which says:

6

7 *A crucial factor in this trial is the*
8 *social environment created by the*
9 *congregation of Jehovah's Witnesses which*
10 *has strongly influenced the behaviour of*
11 *the defendant and all witnesses.*

12

13 Did you cause that statement to be recorded there?

14 A. Yes.

15

16 Q. Why did you write that, Mr Davies?

17 A. I had done a lot of preparation of offence matters
18 involving sexual abuse of children, but this matter stuck
19 out for me, because I really had had no exposure to matters
20 involving the Jehovah's Witnesses, and when I read the
21 material, conducted the last day of the committal, had
22 spoken to the complainant I think on more than one
23 occasion, I formed the view that it was important that
24 whoever subsequently had the file after I had done the
25 initial preparation work should instantly know that there
26 was a context that underpinned the whole case. And I think
27 perhaps I was just naive in that I had no understanding of
28 the Jehovah's and how they approached these types of
29 matters. To be frank with you, I assumed that any adult
30 who had heard the type of complaints that the victim in
31 this case mentioned would instantly go to the police. So,
32 really, what I was doing by putting that on the schedule
33 was just making sure that people were alerted to the fact
34 that this was not a run-of-the-mill type of matter.

35

36 Q. Beyond what you've explained with regard to going to
37 the police, is there anything you were referring to in
38 saying the "influence" and "behaviour" of the Jehovah's
39 Witness faith?

40 A. Yes. It also, I think, covered off two other matters,
41 in my thinking at least. One was the time frame - an
42 explanation for the time frame between the allegations
43 first being made by the complainant and then subsequently
44 coming to the attention of the police, which was a period
45 of some years - just in working in the Office of the DPP
46 you become aware it's not uncommon for defence counsel,
47 particularly in so-called historical sexual abuse cases, to

1 raise delay as almost a form of impeachment of the
2 complainant. So that part of my thinking there was that
3 this would be partially to explain, when you looked at the
4 evidence that the complainant gave - her faith was a
5 significant explanation for why it took so long for her to
6 go to the police.

7
8 Secondly, it related to the circumstances in which the
9 accused made the inculpatory statements I referred to
10 earlier, which was something I'd never encountered before,
11 I considered highly unusual, and I considered it would have
12 an impact on the admissibility of those statements.

13
14 Q. Do you recall what those circumstances were?

15 A. In terms of the inculpatory statements?

16
17 Q. Yes, the circumstances of the inculpatory statements?

18 A. The circumstances were that he went before a couple of
19 committees of the Jehovah's Witnesses and had allegations
20 put to him in front of a panel of elders and he gave a
21 response and they made findings. That was one aspect of
22 it. It was kind of like a court proceeding, in a way.

23
24 The second aspect is that he, as part of his faith, as
25 it was explained to me I think, possibly by the
26 complainant, was that the more truthful he was at a certain
27 point, the more chance later on he would get to be returned
28 to the faith, after being disfellowshipped. So two aspects
29 I suppose - one, he was encouraged or required to be
30 truthful by the tenets of his faith; and the second was the
31 more truthful and honest he was, the more chance his
32 punishment would end early.

33
34 Q. So the one aspect you've identified is the delay
35 that's caused by the handling of the matter internally to
36 the church. Are there other consequences that you
37 experienced in the preparation of this particular case
38 that the handling of the matter internally to the church
39 caused?

40 A. I'm sorry, I don't understand your question.

41
42 Q. You've explained that, because the matter was handled
43 internally to the church and not reported to the police,
44 there was a considerable delay before it was ultimately
45 reported to the police. And --

46 A. That's correct.
47

1 Q. -- you've explained the problem with the delay. Were
2 there other difficulties that arose because of the manner
3 in which the matter was handled internally to the church?

4 A. To my thinking, the only other major problem was in
5 relation to the admissibility of the accused's statements.
6 I think that there were - the other problem that I probably
7 didn't focus on as much, because it didn't necessarily
8 impact directly on the prosecution of the matter, but
9 I acknowledge it, is that the way the complaints were
10 handled internally by the church must have had a terrible
11 impact on the complainant, and it led her complaints to be
12 exposed to a very wide variety of people, more so than you
13 would normally see in a sexual abuse case where a young
14 victim would speak to maybe one other person, perhaps, and
15 then the matter would end up in the hands of the police.
16 In this particular case, the complainant was forced to go
17 before at least three other members of the church - I think
18 her mother was present, her father was there, I'm not sure
19 whether any other persons were there. That was only on the
20 first occasion. On the second occasion it was even a
21 bigger panel. And these are - at least on the first
22 occasion - people who live in her local community. So
23 undoubtedly she was subject to some, you know, gossip and
24 innuendo that might have resulted from the revelation of
25 those matters.

26
27 Q. And whether in this case or more generally, do you
28 conceive of there being potentially a difficulty with
29 regard to the contamination of evidence?

30 A. Yes, that's true, probably not as important in this
31 case because of the age of the complainant and the relevant
32 consistency of her statements over the years. I wouldn't
33 have anticipated that as being specifically necessarily a
34 problem in this case, but potentially in other cases, yes,
35 it's true to say that the fewer people who discuss the
36 matters directly with the complainant the better, at least
37 until it's in the hands of the police where they can
38 conduct a proper interviewing process with non-leading
39 process.

40
41 Q. I don't wish to put you on the spot on a legal
42 question, Mr Davies, but you may be aware that in New South
43 Wales and Victoria there are statutory offences for the
44 concealment of certain types of offences. I understand
45 that there is no such statutory offence in Queensland.
46 Would that be right?

47 A. I understand that the relevant law, which would have

1 been misprision of felony, ceased to be in operation in
2 Queensland many years before I became a prosecutor, from
3 memory I think in the 1980s.
4

5 Q. 1985 my research tells me, Mr Davies.

6 A. There you go. That was only an educated guess on my
7 part. That meant you didn't have, I suppose, the same
8 prosecutorial influence over people in terms of them
9 reporting offences, so technically I don't think that the
10 elders in this case committed any offence at the time by
11 simply failing to report the matter, and, you know, in
12 Queensland there still isn't a general offence of failing
13 to report these type of matters, except in limited
14 circumstances where you might be a mandated reporter in a
15 particular profession or occupation such as teachers,
16 doctors, police officers, child safety officers, et cetera.
17 I've done a lot of work on that type of stuff in my
18 capacity as a lawyer for the education department.
19

20 THE CHAIR: Q. Mr Davies, do you know the motivation for
21 legislating to do away with the misprision law?

22 A. Look, no, I don't. The only reason I know about it at
23 all is because I've had to do research on the issue in
24 terms of my current employment to see what the laws were
25 and how they affected departmental staff, and I had access,
26 I think, to an Australian Law Reform Commission report that
27 had some background research. All I needed to know was it
28 didn't exist anymore and there wasn't anything else to
29 replace it.
30

31 Q. You may not know the answer to this off the top of
32 your head, but is a Sunday school teacher a mandated
33 reporter under your legislation, or would they be?

34 A. Very unlikely, because it would only apply if they
35 were a registered teacher.
36

37 Q. They have to be registered?

38 A. You have to be a registered teacher. I don't wish to
39 say I'm an expert on the matter at all, but that was a
40 limitation that was imposed in the adoption of the Carmody
41 Report that occurred in Queensland a couple of years ago
42 into child protection. There had to be - a lot of thinking
43 was done about how you would define specifically the people
44 who were going to be caught, and I was part of the
45 discussions, I'll admit, and I think coming up, identifying
46 people as registered teachers was just the simplest way.
47

1 Q. I take it clergy weren't included?

2 A. I don't know. I don't think so.

3

4 Q. No. That would run you into other problems.

5 A. And you must understand that the mandatory reporting
6 provisions in Queensland relate to child harm, so it's a
7 much broader spectrum of matters than simply sexual abuse.
8 If you look at the Education (General Provisions) Act, for
9 example, in Queensland, which I have a lot to do with,
10 you'll see that there is a specific reporting provision,
11 mandatory reporting provision, on school staff in relation
12 to any sexual abuse, and that was amended only a couple of
13 years ago in respect of a report authored by
14 Dr Ben Matthews from the Griffith University, I think, or
15 QUT, I think he'll forgive me, I think it's QUT - where he
16 examined the nature of the mandatory reporting provisions
17 in Queensland, and we changed them. It used to be you only
18 had to report sexual abuse committed by another teacher.
19 Now it's broader.

20

21 Q. So if it's happening in the home, it has to be
22 reported if the teacher knows about it?

23 A. In the course of their duties, yes, but there is no
24 criminal offence related to the non-reporting in the Child
25 Protection Act area. It's not an offence. The only - the
26 only comeback, I suppose, you have against a person who is
27 a mandatory reporter who doesn't report is really an
28 administrative one such as discipline.

29

30 Q. So it's not an offence not to report?

31 A. Not under the Child Protection Act, no. There is an
32 obligation, but it's not an offence - unless you -
33 I haven't explored the question of whether - there is a
34 provision in the Queensland Criminal Code that applies in
35 relation to people who have a duty to do something and, if
36 they fail to do it, there is a default term of imprisonment
37 that applies. So I don't recall specifically whether or
38 not that has been ameliorated in terms of that particular
39 obligation.

40

41 Q. It's odd to have an obligation without a sanction.

42 A. Well, I think - as I said, I'm not speaking on behalf
43 of the State of Queensland in relation to this, but I would
44 say that the thinking there really was - because the
45 Carmody report was trying to triage the number of reports
46 that were coming into the child safety system. About
47 80 per cent of matters reported were not acted on. They

1 didn't reach the thresholds necessary for child protection
2 statutory action, and they were effectively clogging up the
3 system and wasting time and taking resources away from what
4 were considered the core concerns - really, the sexual
5 abuse and severe other abuse matters. So I think the
6 thinking probably was that if we make it an offence
7 provision, that's going to encourage people to report
8 everything rather than give effect to the policy aim of the
9 reforms, which was to only get the most important stuff
10 reported.

11
12 Q. You could do that by making it an offence provision in
13 relation to the important matters, couldn't you?

14 A. Perhaps, yes.

15
16 MR STEWART: Q. Mr Davies, in your role in the
17 prosecution service, did you have any involvement in other
18 cases where there was some Jehovah's Witness element to
19 it - relevant element?

20 A. Not that I recall.

21
22 MR STEWART: Those are my questions, your Honour.

23
24 THE CHAIR: Does anyone else have questions of Mr Davies?

25
26 MR COYNE: Yes, your Honour.

27
28 MS DAVID: No, your Honour.

29
30 <EXAMINATION BY MR COYNE:

31
32 MR COYNE: My name is Coyne. I represent Dino Ali, Kevin
33 Bowditch, Ron de Rooy and others in these proceedings.

34
35 THE CHAIR: I think you need to identify they are elders
36 of Jehovah's Witness Church.

37
38 MR COYNE: Q. Who are each elders in the Jehovah's
39 Witness Church. Mr Davies, you made a statement on 8 July
40 2015; correct?

41 A. Yes.

42
43 Q. That statement was about your dealings with members of
44 the Jehovah's Witness Church as part of the prosecution of
45 someone - yes?

46 A. Yes.

47

1 Q. Yes. Did that include Mr Dino Ali? Did you deal with
2 him?
3 A. I don't recall specifically. I did have access to the
4 committal transcript, but I didn't check it specifically.
5 I do recall that I took the - I led evidence from the
6 elders at least in relation to the first appeal matter, but
7 I can't recall specifically who they were.
8
9 Q. Do you recall which elders made statements in relation
10 to this matter?
11 A. I recognise the names de Rooy, Ali, Bowditch. Those
12 are the ones that stick in my memory.
13
14 Q. As elders who made statements in relation to the
15 prosecution?
16 A. That's correct.
17
18 Q. You say in your statement you did not have any
19 difficulty "in obtaining cooperation from the witnesses I
20 examined who were, in the main, lay representatives of the
21 Jehovah's Witness Church". Correct?
22 A. Correct.
23
24 Q. Would that include those three persons that I've
25 named?
26 A. Yes.
27
28 Q. You've said, "I do not recall any reluctance or
29 hesitation to assist me in obtaining records in question"
30 in relation to the proceedings.
31 A. Yes.
32
33 Q. And you have also said:
34
35 *... I do not recall feeling that they had*
36 *been uncooperative or mendacious in any*
37 *respect.*
38
39 A. Yes.
40
41 Q. And that's referring to the witnesses again?
42 A. That's correct.
43
44 Q. And that would be the three named people before - Ali,
45 de Rooy and Bowditch?
46 A. That would be inclusive of them. I didn't - I don't
47 recall any problem with any of the witnesses, really, in

1 the matter that I dealt with.

2

3 Q. And you requested statements for the prosecution,
4 which they made.

5 A. Well, I didn't request them; they would have been
6 prepared and obtained by the police. They would have been
7 part of the prosecution brief before I ever obtained the
8 matter, but I may - I may have spoken to them on the phone
9 before the hearing. If, for example, the matter was going
10 to be full evidence, I might have wanted to speak to them
11 and take them through their evidence beforehand,
12 effectively conferencing them, and then I would have led
13 their evidence in court, but that's probably the only
14 contact I would have had with those particular witnesses.

15

16 Q. If you had to characterise their statements from a
17 prosecution standpoint, would it be correct to say that
18 they were corroborative of the complaint?

19 A. I think so.

20

21 Q. Would you also say that they contained alleged
22 admissions of the accused?

23 A. I think if they didn't specifically contain them, they
24 certainly referred to them, because I think, from memory,
25 there were admissions outlined in other documents that we
26 obtained directly from The Watchtower Society, I think from
27 memory, and there was a solicitor I spoke to and I had to
28 organise the subpoena of the documents.

29

30 Q. So each of those statements of de Rooy, Bowditch, Ali,
31 were all in support of the prosecution of the accused?

32 A. Yes.

33

34 MR COYNE: Thank you.

35

36 THE CHAIR: No other questions? Mr Stewart?

37

38 MR STEWART: Nothing further, your Honour, for Mr Davies.

39

40 THE CHAIR: Thank you, Mr Davies. That concludes your
41 evidence and you are formally excused.

42

43 THE WITNESS: Thank you.

44

45 <THE WITNESS WITHDREW

46

47 MR McMILLAN: Might I also be excused, your Honour.

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THE CHAIR: Yes, certainly. I'm sorry, Mr McMillan.

MR STEWART: Your Honour, the witness whom I would call next ordinarily would take some time and, given that we've committed to have the expert witness of The Watchtower Society on Friday, it means that that witness's evidence would hang over at least tomorrow and part of Friday maybe.

THE CHAIR: I think we're travelling well in accordance with our schedule, so we're not troubled by adjourning now, if that's what you're asking.

MR STEWART: That's what I'm suggesting, your Honour.

THE CHAIR: We'll adjourn until 10 o'clock, Friday morning.

**AT 3.30PM THE COMMISSION WAS ADJOURNED TO
FRIDAY, 31 JULY 2015 AT 10AM**

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