ROYAL COMMISSION INTO INSTITUTIONAL
RESPONSES TO CHILD SEXUAL ABUSE

Public Hearing - Case Study 42
(Day 227)

Level 17, Governor Macquarie Tower
1 Farrer Place, Sydney

On Wednesday, 16 November 2016 at 10am

Before:

The Chair: Justice Peter McClellan AM
Commissioner: Mr Robert Fitzgerald AM
Commissioner: Mr Robert Atkinson AO APM

Counsel Assisting: Ms Naomi Sharp

.16/11/2016 (227) 23104
Transcript produced by DTI
MS SHARP: Good morning, your Honour, and good morning, Commissioners. There have been some changes in counsel since the matter was last before you. I may ask, if it is convenient, for new counsel to announce their appearances.

MR A CASSELDEN SC: I seek leave to appear on behalf of Mr Michael Elliott.

THE CHAIR: Yes, you have that leave.

DR M FITZGERALD: I appear for [COE] pursuant to leave granted by the Commission and also for [CKU], [CKR], [CKH], [CKB] and [CKL], and Phillip D’Ammond.

THE CHAIR: Yes, thank you.

MR TERRACINI: I am standing in for Mr Massey today and tomorrow, representing Mr Lawrence.

THE CHAIR: Very well. Anyone else?

MS B DUCHEN: I am standing in for Mr Averre, for Mr Hansen. I seek leave to appear, thank you.

MS SHARP: Can I just raise some housekeeping matters before the examination of Mr Caddies resumes. First of all, your Honour and Commissioners, it is necessary to start at 11.30 tomorrow morning, and I just wanted to make parties aware of that. Depending on how things are travelling with the witnesses, it may be necessary to start at 9.30 on Friday morning, and I will raise that tomorrow afternoon.

There are a number of new documents that have been served in the intervening period since the last hearing up in Newcastle. May I draw your particular attention to the situation with respect to Bishop Alfred Holland, who gave evidence during the first sittings. May I say this by way of background: on 1 July 2016 my instructing solicitors sought a statement from Bishop Holland. That was provided on 15 July 2016. On 3 August this year, Bishop Holland gave oral evidence that he was never made aware of allegations that Peter Rushton had sexually abused [COE].

On 24 August 2016, my instructing solicitor wrote to those representing Bishop Holland requesting a supplementary statement, in view of evidence that the
Commission received by statement from Ms Lesley Danger, in which she said that she had discussed the [COE] allegation with Bishop Holland in around 1980.

On 26 August, Bishop Holland provided a supplementary statement in which he responded to that evidence of Ms Danger.

On 10 November, following the service of further statements from Mr Chris Hall and Ms Valerie Hall, and a witness given the pseudonym [COC], Bishop Holland was requested to provide another supplementary statement, because those witnesses also gave evidence of meeting with him and disclosing sexual abuse on the part of Peter Rushton.

At that time, those representing Bishop Holland were advised that his credit was in issue.

On 14 November, Bishop Holland was provided with [COE]'s statement and, later that same day, Bishop Holland provided another supplementary statement in which he dealt with that new evidence.

I tender the supplementary statement of Bishop Holland that is at tab 30A of the bundle. I also tender the bundle of correspondence that --

THE CHAIR: Just a minute. The statement you tender is sworn on what date?

MS SHARP: The statement of 26 August 2016. That should be in your Honour's statement bundle at tab 38.

THE CHAIR: Yes. I think we're up to exhibit 104; is that right?

MS SHARP: Yes.

EXHIBIT #42-104 STATEMENT OF BISHOP HOLLAND DATED 26/8/2016

MS SHARP: There is also the chain of correspondence that passed between my instructing solicitors and those representing Bishop Holland. That has been served and it is in the supplementary bundle that is already marked exhibit 42-001. However, I will, just for the record, indicate the new tab numbers, which are 423A, 425AA, 425C
and 425E.

THE CHAIR: Very well.

MS SHARP: There is also a statement of Bishop Holland dated 14 November 2016. That should have been inserted into your Honour's bundle. That is at tab 30B and I would tender that statement too.

THE CHAIR: Which bundle?

MS SHARP: In the statements bundle.

THE CHAIR: It will become exhibit 42-105.

EXHIBIT #42-105 STATEMENT OF BISHOP HOLLAND DATED 14/11/2016

MS SHARP: That is the balance of the housekeeping matters. I call Mr Caddies

<ROBERT NORMAN CADDIES on former oath [10.15am]

<EXAMINATION BY MS SHARP:

MS SHARP: Q. Could I return to a document that you were shown on the last occasion. If I can have tab 421 of the bundle shown. If it assists, the Ringtail reference is CORR.0220.001.0001.

A. Yes.

Q. If I could just have that letter shown to you in a full page, you will recall that this is the letter that was sent to the Royal Commission in respect of which you were one of the signatories?

A. Yes, I do.

Q. I want to draw your particular attention, Mr Caddies, to what is stated on the first page at (a), down at the bottom half of the page?

A. Yes.

Q. It is asserted there.

We are gravely concerned -

(a) that, if the allegations were correct,

Bishop Thompson apparently took no action
at the time ...

Now, what you are complaining about here is that Bishop Thompson took no action when he was a 19-year-old man to report that he had been sexually abused by Bishop Shevill, isn't it?
A. Firstly, I'm not sure I'm saying I'm complaining; I'm drawing attention. And, yes, I think that is the effect of it, yes.

Q. Well, in your drawing attention you characterised it in your letter as being "gravely concerned". That's a complaint, isn't it?
A. I don't believe it is quite the same thing, no.

Q. Well, it's an expression of your "grave concern"?
A. Yes.

Q. But you are not happy about it, are you?
A. That was the situation, yes.

THE CHAIR: Q. You were intending to criticise him, weren't you?
A. Well --

Q. Let's be frank about this. That's what you were seeking to do, wasn't it?
A. It's - yes, I suppose it is, your Honour. We were simply asking, the writers of this letter, that these matters be looked at in the course of investigation. It was no higher than that, and I said that in my statement in two different places - the first statement.

MS SHARP: Q. What you have actually said here is that you are gravely concerned that "Bishop Thompson was potentially exposing younger members of the Diocese to danger"; do you see that?
A. Yes.

Q. That's a very serious allegation to level against the Bishop, is it not?
A. Well, firstly, you say, "at the time"; it also says "and until recently" - I didn't know at that time the nature of the abuse, nor did anybody else that was a signatory to the letter.

Q. Yes, but that's not the answer to my question,
Mr Caddies. The question is that you are making an extremely serious allegation in saying Bishop Thompson was potentially exposing younger members of the Diocese to danger?

A. Well, that is - yes, I think I am saying that. That was a possible situation in the period up to the time of Bishop Shevill's death and also in relation to the other gentleman, until the time of his death in 1990.

Q. So you are seriously suggesting that a 19-year-old man, failing at the time to report his abuse by the most senior member of the Diocese, was exposing other people to potential harm?

A. Well, I didn't know what the abuse was, but - and I do understand the concern a person of that age would have, that possibly no-one would believe them, at that age, when you are comparing against a person in some position of authority. However, I'm sure that that would have been a matter of concern to the Bishop right through the years after that event occurred.

Q. My suggestion to you is what you were trying to do in this letter was seriously undermine Bishop Thompson in the eyes of the Royal Commission?

A. No, I wasn't trying to do that.

THE CHAIR: Q. Well, what were you trying to do? What were you trying to achieve by this letter?

A. Well, I set it out, I believe, your Honour, in paragraph 32 of my first statement.

Q. Tell us all now, what were you trying to achieve by sending this letter?

A. We, the writers of the letter, or the signatories, were asking the Royal Commission to consider those matters in the investigation stage and carry out interviews.

Q. Why? Who did you want us to interview and what investigation did you want us to conduct?

A. Well, I understood that Bishop Thompson was being interviewed at that stage, and it seemed to me, and I believe to the others, that at least there should be some explanation. And we are hearing this a great deal in the Royal Commission now, that people want to bury these things from their recollection, and - but it seemed to us that there should be some explanation as to why it's come out only recently, at the time of the Royal Commission.
MS SHARP: Q. You understand, don't you, that many victims of sexual assault take some time to disclose their experiences, don't you?
A. Yes, I'm coming to an understanding of that far better than I did, perhaps, in April this year.

Q. But it's only in April - some time after April this year, it came to your attention that many people take quite some time to report experiences of sexual abuse?
A. No, I was aware of that sort of history from others in the past, from reading it in the papers, and so on.

Q. And can you just remind us how long you've been a solicitor for?
A. Forty-five years.

Q. And you were on the Diocesan sexual assault committee for quite some years?
A. I don't think it was called sexual assault --

Q. No, it was called CASM, wasn't it?
A. Yes.

Q. All right. Now that we've clarified that, you were on that committee from 1995 to around 2002?
A. Yes.

Q. At that time, surely you were aware that many victims of sexual assault can take quite some time to report their experiences?
A. Yes, but I don't think it really came out of the CASM. I was aware of it, at that period, of such matters coming forward.

Q. Why are you targeting Bishop Thompson in this letter for failing to report his experiences as a 19-year-old young man?
A. These matters are a very small part of the concerns that I and the other signatories have in relation to Bishop Thompson, and if one were to look at the other letter that is in evidence, addressed to the Metropolitan New South Wales, Archbishop Davies, then there are a great deal of other matters of concern to us, and I think it's - that this is only a very small part of the concern that we had.
Q. Is this letter to the Royal Commission an attempt to undermine Bishop Thompson?
A. Well, if you mean by "undermine" to destroy someone or to - it certainly wasn't that, no.

Q. Well, let's go to that letter you've just referred to, if I can have you shown tab 420. I will just have you identify this letter, Mr Caddies. Do you see it is dated 13 April 2016?
A. Yes.

Q. This is directed to the Metropolitan of the Anglican Church in Australia in the province of New South Wales?
A. Yes.

Q. If I take you to the signatures pages, which are the second-last and last pages, these are the same group of people who signed the letter to the Royal Commission?
A. Yes, they are.

Q. And you are one of the signatories?
A. Yes.

Q. Did you write this letter?
A. I contributed to writing it.

Q. Did you type it out?
A. No, I think parts of it were provided to me. I may have copied and pasted and received comments and changed the document, but I probably was the person that finally put it together, yes.

Q. And this is the same date as your letter to the Royal Commission?
A. Yes, it is.

Q. If I take you back to the first page, Mr Caddies, you refer to the allegation that Bishop Thompson was groomed by Bishop Shevill?
A. Yes.

Q. And you make the same point as you made to the Royal Commission, in that second-last dot point on the page, that Bishop Thompson apparently took no action at the time, thus, potentially exposing younger members of the Diocese to danger?
A. Yes.
Q. It is a pretty serious allegation to make, isn't it?
A. With the added comment "and until recently", yes.
Q. So you accept that's a very serious allegation for you to be making?
A. Yes.
Q. Tell me, is this an allegation you have levelled at other 19-year-olds who didn't report their sexual abuse for some time?
A. I will be honest with you, something not as bad as this happened to me at that age, so I do understand where Bishop Thompson is coming from. I had something like that happen with a medical doctor, when I was a 19-year-old, who was training to be a specialist, and so I do understand the concerns. I certainly reported the comment to my friends of a similar age but - of what had happened, but I believed at the time no-one would believe me, as a 19-year-old, against a medical person going on to a - in a postgraduate fellowship, so I do understand.
Q. Well, why are you holding Bishop Thompson to a different standard compared with that you applied to yourself?
A. Because I think there's a slight difference, that this is a man, who then went on to become involved in various senior rectories around the country - in Sydney, Canberra, then went on to become Bishop in the Northern Territory - the type of experience he had would have undoubtedly made him aware of these issues. And I think that that would have been something that he would have wanted to ensure, that people should - that that kind of abuse should be avoided in relation to other potential young people.
Q. Can I take you to the second page of this letter, please, Mr Caddies?
A. Yes.
Q. Here in this dot point in the middle of the page, you refer to Bishop Thompson saying, during a radio interview, that if people want to make a complaint about sexual abuse, they should come forward and the church would believe them. Now, you are complaining about him saying this on the radio here, aren't you?
A. My comment is, "I believe if you come forward, we will listen to you empathetically. We will seriously consider
what you are saying."

Q. So your problem is the fact that he has said that he
would believe the people who came forward to complain?
A. Well, it's not providing potential fairness or natural
justice to the person who may be the subject of the
complaint or allegation.

Q. That's not what you say here, Mr Caddies. You go on
and say:

        We are personally aware of a number of
cases in which a claim of sexual abuse has
been falsely made ...

Are you?
A. I'm aware of reading of many cases of so-called
recovered memories, and that - and having read of people
who have subsequently been shown not to have actually had
those, that they have been under hypnosis and things of
that nature. I can't say I individually was involved in it
or have an individual knowledge of such matters, no.

Q. Are you saying that within the Diocese of Newcastle
you are aware of many false allegations of sexual abuse?
A. I'm not aware, no.

Q. You see, because you have said here "We are personally
aware". Now, that's not a reference to reports of
recovered memory; that's a reference to personal
experiences of the people who signed this letter, isn't it?
A. I think I can - it's a fair criticism, madam.

Q. All right. Well, are you personally aware of people
who have made false allegations?
A. Only from things I've read.

Q. Are you personally aware of it?
A. No.

Q. So you have said something here that's not true, in
your complaint about the most senior member of the Diocese?
A. Well, I don't know about others, but, no, as regards
myself, that - yes --

Q. Were you referring to Graeme Lawrence here?
A. No.
Q. Are you sure about that?
A. I'm quite sure.

Q. Can I take your attention to the third page. You will see there is a dot point that says:

It is regrettable that Bishop Thompson's health appears to be impairing his performance as Bishop.

A. Yes.

Q. So you are making that allegation against him to the Metropolitan?
A. Yes, I'm drawing that attention, that it appears to be impairing his performance as Bishop, yes.

Q. Then can I take you to the fourth page of that letter, to the first paragraph under the dot points:

We seek your advice as to whether these matters together establish examinable conduct within the meaning of the Episcopal Standards Canon 2007 ...

So is it right that you are trying to raise an issue as to whether Bishop Thompson should be removed as the Bishop?
A. We were asking for advice in that letter.

THE CHAIR: Q. But again, can we cut to the chase? You were seeking to have him removed, weren't you?
A. It wouldn't have made any difference to the issues in this - in our Diocese, your Honour.

Q. Well, that's not the point. You were seeking, through this letter, to initiate a process to have the Bishop removed, weren't you?
A. Not necessarily. If he was ill, for instance, if that was the explanation, it may be that there could have been recovery.

Q. Otherwise you wanted him removed; is that right?
A. I'm not referring to his leadership, and I do believe he's done a good job in relation to sexual abuse matters, but I do believe that he has not been discharging his other obligations as Bishop to any great extent.
Q. Would you just answer my question: you wanted him removed; is that correct or not?
A. No, your Honour, I don't believe it's necessarily correct. It may have been that, but not necessarily.

Q. Well, I'm asking your motivation. What's your motivation?
A. We were desperately unhappy about the problems in the Diocese, the problems of the Bishop not being in our cathedral, not preaching in the cathedral, not attending services there, and many other things, including a great deal of unfair treatment, I believe, in relation to clergy.

Q. And the picture we now have, of course, is of a deep division in the Diocese; that's correct, isn't it?
A. There is certainly a great unhappiness in these matters, your Honour, yes.

Q. And a lot of that centres around the history in relation to Dean Lawrence, doesn't it?
A. Some of it.

Q. And centres around the sexual behaviour of some of the church people over time and the way that problem has been addressed by the church, doesn't it?
A. Inappropriate sexual behaviour is something that I, and I don't believe any of those people, would approve of.

Q. But, nevertheless, it's been present right in the cathedral accommodation, hasn't it?
A. It's been part of the issue, your Honour, yes.

Q. And what the Bishop has tried to do is deal with it, face up to the problem and deal with it, hasn't he?
A. In the cathedral?

Q. And generally in the Diocese?
A. I believe generally - I believe he has been generally trying to face up to those issues, yes.

Q. And there has been resistance from within the Diocese, hasn't there?
A. No, I don't think so in relation to that issue. I think that the --

Q. Sorry?
A. I think that the Bishop's leadership in relation to creating a healthy future is something that has been strongly supported by everybody in the Diocese.

Q. You say that, do you?
A. I believe so, yes.

MS SHARP: Q. Are you just making this up as you go along, Mr Caddies?
A. Ms Sharp, as you rightly point out, I'm a solicitor of 45 years standing and I am an officer of the Supreme Court of New South Wales. I take my responsibilities as such very seriously and I certainly am not making it up as I go along.

Q. The very first thing you complain about in this letter to the Metropolitan is Bishop Thompson's actions in relation to exposing child sexual abuse, and the second thing you complain about in this letter is Bishop Thompson issuing an offer on radio that people who have experienced sexual abuse make a complaint about it.
A. I was not happy about the matter coming forward simply on the ABC for the first time. I didn't think that was quite the way we should, as the church, be handling it. We were always anxious, even in the times of the CASM committee, for people who had been unfairly treated to come forward.

Q. Did you want these allegations to remain a private matter within the Diocese?
A. No, I wanted due process to be conducted. I certainly wanted people who had been aggrieved to feel free to come forward.

Q. Is this a campaign to undermine Bishop Thompson because he tried to raise the issue publicly of child sexual abuse within the Diocese?
A. No.

Q. And he tried to right the wrongs of the past?
A. No. In fact, you know, if we had really wanted to simply "bring Bishop Thompson down", we - not necessarily we, but it would have been possible to have invoked this bishops incapacity canon and started that process. We were not trying to do that. We were trying to ask the Metropolitan for advice, "What do we do?"
Q. Weren't you trying to smear his name to the Metropolitan?
A. No. We were drawing attention to what we believed were issues or fact that needed to be considered, and we were asking for advice, "What do we do?"

Q. And I see in this letter that you state that you wrote to the Primate in similar terms?
A. Yes.

Q. So were you trying to smear Bishop Thompson's name to the Primate as well?
A. No. I don't think "smear" is the right word. It is drawing attention to a person who may, at some stage in the chain or process, have reason to look at these matters.

Q. Can I ask you about a different topic now?
A. Mmm-hmm.

Q. I want to ask you about the committee - it's had various names, including the Committee for the Monitoring of Sexual Abuse; you are familiar with that committee?
A. No, it wasn't called that, but, yes, I know the committee you are referring to.

Q. What was it called originally when you were involved?
A. I think the initial name was Committee for the Monitoring of Allegations of Sexual Harassment, and having looked at further documents and reading certain letters, I believe there was an intermediate name called the Committee for Monitoring Allegations of Sexual Misconduct, Harassment and Abuse, and finally, in 2002 I think it changed to the Committee for Monitoring Allegations of Sexual Misconduct, and at that point it became known as CASM.

Q. Well, I will call it CASM and you will know what I'm talking about.
A. Yes.

Q. You were a member of CASM from 1995 until about 2002, 2003?
A. Yes. I actually started, I think, at the end of 2004, from having read certain documents.

Q. Sorry, you finished in 2004, did you?
A. I'm sorry, I meant to say 1994, in about October 1994.

Q. What was your role on CASM?
A. I was a committee person. I was asked to go on it I believe at the request of Bishop Herft, although it wasn't directly from him, and I was asked to go on it because they wanted or the church wanted a lawyer on the committee. So my role, although it wasn't expressed in the documents, was really one of putting a legal perspective on the matters that came before the committee. And we had various training days, particularly in 1995, although we did have training days after that, which don't stand out particularly in my mind at this time. And I think, in particular, I was referring to - I was putting a legal aspect or contribution to the deliberations of that committee, as well as being generally a member of the church and a, I believe, reasonably good citizen.

Q. Was Bishop Herft a member of that committee?
A. I'm not sure. I think he may have been ex officio, and he certainly came and sat in a few meetings for short periods, particularly in the early days. My sense is he wasn't a member of the committee. But the chairperson of the committee reported to Bishop Herft.

Q. Can you tell us whether Graeme Lawrence was a member of the committee?
A. I don't believe he ever was.

Q. Was Keith Allen a member of the committee?
A. No. So if Graeme Lawrence and Keith Allen and Bishop Herft were part of a committee which examined sexual abuse allegations, it was different from CASM?
A. Yes.

Q. I would just like to show you some advices you obtained and prepared on behalf of or for the purpose of CASM. Could I start by taking you to a document at tab 15 of the tender bundle.
A. It possibly would be helpful for me to have an index of these documents. It might help me to identify what you are referring to before it comes up on the screen.

Q. Yes, I can see if that can be made available.
A. Yes.
Q. If I can have that enlarged so you can see the top half of the document, you will see it says it is "From Robert Caddies" and it has a date on it. Is that your handwriting?
A. No, it is not, actually.

Q. This is a document that provides some advice about defamation law. Is this a document that you prepared?
A. Well, it's a document that I prepared and it was the basis for an address I gave when I ad-libbed from it as I went along to training days to the new contact people.

Q. And as the first paragraph of this document says, it appears that people were concerned about the threat of defamation if they received complaints?
A. It wasn't the recipient that was worried about the defamation; I think I was worried about the people who made the complaints, that they could be exposed to defamation. We wanted to reassure them that they were perfectly safe to make complaints or allegations against someone, providing they were acting without malice.

Q. So, just so I understand, your objective was to show people that they could be comfortable in making complaints and they did not need to fear defamation?
A. Absolutely.

Q. And you took that view on the basis that they would be protected by what's called a qualified privilege defence?
A. Yes.

Q. Can I take your attention to the third page of that advice. Just under the heading "Sexual assault distinguished from sexual harassment", you state there:

I do not believe that it is a function of the committee to become involved in what could be a serious criminal offence.

A. Yes.

Q. So your view at the time was that CASM was not really the appropriate vehicle for considering allegations of sexual abuse; is that right?
A. I didn't - not exactly. I think if it was of a serious criminal matter or had a criminal component, I couldn't see how a conciliation between a contact on - by
a contact person could work in relation to something that really was the province of the criminal law.

Q. So your view was that conciliation was not a suitable framework for dealing with an allegation of sexual abuse?
A. It could deal with the allegation, but I think we would have to direct people to a different place. I don't think it was suitable to resolve those sorts of matters.

Q. You say in your first statement at paragraph 7 that CASM was really for adults. What did you mean by that?
A. We, as the committee, or more particularly the chairperson, received a number of complaints concerning children. Now, they were matters that really almost every case I think went to the Bishop. They weren't dealt with under the CASM process. There was no conciliation process. It was simply inappropriate.

I pondered on this, if I may speak or expand about it - I was asked by the Diocese three years ago to come and talk to their solicitor, Scott Puxty, about the committee, and amongst other things he asked me to have a look at Bishop Herft's statement in the - I think it was Case Study 3, the Grafton inquiry. And when I read the statement, I thought that's where Bishop said - Bishop Herft said it was really an adults matter, I thought that's exactly what it was; it was not meant to be that.

The cases that I became involved in, although they may have come through an inquiry to the committee, were really directed off to the Diocese and the Bishop. So I don't think - I just simply don't believe that it was an appropriate venue for dealing with matters concerning children.

If one reads the early protocols, you might say, "Well, it doesn't actually quite say that; it seems to speak of everybody", but my training addresses were to the effect that it was not appropriate. I don't know whether the additional pages in my address, which are missing, or were missing, have been found, but I know I certainly said that, and I certainly said in relation to adult matters of a significant criminal nature, they were simply inappropriate to be dealt with that way.

Q. Can I return your attention to the bottom half of this page of the advice. You there refer to a series of
criminal offences relating to sexual abuse, and if I can take you over to page 5 of this document, towards the bottom of the document, you expressly refer to section 316 of the Crimes Act --
A. Yes.

Q. -- at the bottom of that page. What was your understanding --
A. Sorry - oh, yes, sorry, yes.

Q. What was your understanding of the obligation under section 316?
A. Well, as I understood it at the time, and - I believed it was the codification of the common law misdemeanour of failing to report a felony or misprision of a felony, and I believed it was an obligation for a person who became aware of matters which constituted a serious indictable offence - at the time in question, it simply said "serious offence", but it was changed shortly thereafter - and that was - a serious indictable offence was one that, for an adult, attracted a potential penalty of greater than five years penal servitude. If someone became aware of circumstances, that they should be reported to an officer of the police force - I think that was the wording in the section at the time.

Q. You say at paragraph 9 of your first statement that you advised Bishop Herft that serious indictable offences must be reported to the police. What did you say to him?
A. I recall specifically - this happened a few years before, but I do recall, and I believe Bishop Herft was present at one of those training days possibly when I was addressing that issue, but I do know that I spoke at an urgent meeting of the Diocesan Council just after the defalcation issue arose in 2002, in January 2002, about the obligation, and I pulled out the section. I think I also pulled out a discussion paper of the Law Reform Commission New South Wales on the question of section 316. It probably wasn't that night, but I think I - I'm pretty sure I took it over for some reason. But I was taking - I lived across the road from Bishopscourt at that stage.

Q. Mr Caddies, what did you advise Bishop Herft about section 316?
A. I said, "We will have to report this - this offence to the police." And I subsequently addressed the Synod on the issue.
Q. But I'm not asking you about that, if you could just attend to my question. Was it on one occasion that you advised Bishop Herft about section 316 or on more than one occasion?
A. No, I'm certain I advised him on more than one - more than a couple of occasions, but I specifically recall those instances, because it was an absolutely clear-cut case of a serious indictable offence within the legislation.

Q. At the time, at around 1995, did you consider that if an allegation of child sexual assault was made, it needed to be reported to the police?
A. Absolutely, and also to the Community Services, FACS, whatever it was called in those days.

Q. Did you advise Bishop Herft of that view?
A. I don't remember. I know I've certainly advised about that at various times.

Q. You see, you gave evidence that from time to time CASM did receive complaints of child sexual abuse?
A. Yes.

Q. Did you discuss with the members of CASM that those allegations needed to be reported to the police?
A. Yes, I certainly did, probably on training days. But we didn't actually look at specific cases at these committees, and I think you would have to wonder, and I certainly wonder, having to think about these matters, how is it that we all seemed to be going over the same ground quite a lot, we were meeting so regularly. But actually the - although I was on the committee for nearly nine years, there was a constant turnover of, in particular, clergy - they were usually only there for one year. We didn't actually look at those specific cases. The chairperson managed those issues and it's clear from the material I've seen that they were then referred to the Bishop and --

Q. I will stop you there, Mr Caddies. Were you personally aware that allegations of child sexual abuse that were made to the committee were referred to Bishop Herft?
A. Yes - well, there were three chair-people of that committee in my time.
Q. Mr Caddies, I don't want a background explanation. I just want an answer to my question.
A. Well, the question only --

Q. Are you personally aware that child sexual abuse allegations were referred by the committee to Bishop Herft?
A. Yes, by the chairperson.

Q. Thank you. Now, did you provide any advice to Bishop Herft that he needed to report these allegations to the police?
A. We looked at those issues and if it was appropriate, yes, I did. I can't specifically recall an occasion - we discussed those matters, yes. I was very conscious of the need to do what I'd call the right thing. Now, in that regard, in particular, the question did arise in the case of, if you bear with me a moment, [CKU], and the - I'm sorry, I'm just looking for the pseudonym here. Oh, sorry, it's not there, in that case involving Ian Barrack, I know that discussion did happen, we discussed reporting it.

Q. We've seen that you prepared a detailed advice about defamation for the committee?
A. It wasn't an advice. I probably would have been more detailed, but this was an address to a group of lay people.

Q. You also obtained advice about defamation from Stuart Littlemore, the barrister who specialises in defamation?
A. Yes, that was 12 months later.

Q. And you provided that to the committee?
A. Yes.

Q. Did you take similar steps to provide any advice to the committee about their obligations when allegations of child sexual abuse arose?
A. I believe I talked about it in the address that we've just been looking at, which is tab 15, I think. And we were all very much aware of the obligation to report.

Q. Can I take you to your first statement, please, Mr Caddies?
A. Yes.

Q. That's at tab 5 of the statement bundle. It is STAT.1000.001.0001. Can I take your attention, please,
Mr Caddies, to paragraph 8. Now, there you say that you were not ever involved in handling or dealing with complaints of child sexual abuse, and you were never made aware of the identity of complainants?

A. I think - yes, yes.

Q. Now, I think that position changes slightly in your second statement?

A. Yes.

Q. Can I take you to that and can I direct your attention to paragraph 2.2(b).

A. Could I just say this before we just leave that document?

Q. Yes.

A. I think that really is in relation to the committee, that that handling and dealing with complaints of child sexual abuse is concerned. I don't - I think that statement still stands as correct, but I do qualify it in the second statement.

Q. Yes. Let's go to that second statement now. I will refer you to paragraph 2.2(b) and you there say you may have been provided with the identities of a small number of complainants?

A. Yes.

Q. And you did provide advice as to a few alleged perpetrators?

A. Yes.

Q. Were any of those perpetrators reported to the police?

A. Yes. The - I - yes, they were. At the time I made this statement, I didn't have the benefit of a number of documents, which I've seen since, but I believe I was involved in the Ian Barrack matter right at the outset, and that was certainly reported to the police and also it was reported to DoCS. The other matters, I believe the police were already involved - that I became involved in.

Q. Do you remember the names of the perpetrators?

A. Well --

Q. I don't want you to say them aloud, just do you remember the names of the perpetrators?

A. I think I probably do; if I have to identify the
matters, I probably do. But I wouldn't have - but for refreshing my memory from documents, yes.

Q. Could I have you write their names on a piece of paper for me?
A. Yes. (Witness does as requested). I'm sorry, I'm just going through the list. I think these are the two that come to mind specifically where we looked at that question. Oh, sorry, the second one should have a pseudonym, [CKN].

Q. Yes, that's right. Can you confirm that the two people you have written down here are Mr Barrack and [CKN]?
A. Yes.

Q. And they were the only two matters you were aware were reported to the police?
A. There were other matters looked at.

Q. No, no, I'm asking whether you can --
A. Yes, I think they're the only two - well, sorry, I don't know that [CKN] was reported to the police, because he'd already - the police had already been involved.

Q. So it's right that the only matter you know was reported to the police by the Diocese concerned Ian Barrack?
A. I think so.

Q. But as you say here, you did provide advice as to a few alleged perpetrators?
A. Yes.

Q. Was that limited to Ian Barrack and [CKN] or did you provide advice about more alleged perpetrators?
A. I provided limited advice in relation to [CKC] and I provided limited advice in relation to Father Peter Rushton, in relation to the pornographic material in 1998.

Q. And that wasn't reported to the police, was it?
A. No, because we didn't believe at that time that child pornography was present, and neither did the carrier, who would have had a similar obligation to report it.

Q. So your position was that if you didn't believe it, you didn't report it to the police?
A. No, I don't believe that was my position at all.
Q. Okay. Well, we'll come back to Mr Rushton, but the people you have just named, are they the sum total of alleged perpetrators of child sexual abuse about whom you provided advice?

A. Look, I'm not sure, but I - I think I did mention [CKC], and I was only involved in a very limited way about that. They are the few that I recall at this time, yes.

Q. Could I just ask you about the evidence you gave in paragraph 2.2(b) where you refer to giving some verbal advice regarding the Yondeo Youth Camp?

A. Yes.

Q. Do you recall which alleged perpetrator that related to?

A. I didn't know - I think it was - but it's the same incident that's referred to in Mr Bruce Hockman's statement. Mr Bruce Hockman was - I think from about 2003 to 2005, I think he was the business manager of the Diocese.

Q. Thank you. I will come back to that. While you were involved in CASM, was there a system of keeping files which had them placed into yellow envelopes?

A. Yes, I think there was, but I do recall manila-type envelopes before that, and the intent - do you wish me to expand on that?

Q. Yes.

A. The intent was that these matters, which, as I said before, were really conciliation-type matters, were meant to provide an outcome at the conclusion of the conciliation stage. Initially, there was only one contact person, but within 12 months it was thought there should be one for the priest, or whoever it was who was the alleged perpetrator, that they should have a separate contact person. There was intent that those allegations or replies should be in that envelope, together with an outcome.

THE CHAIR: Q. Could you explain to us, what did you mean when you said the intention was that they would be
1 conciliated?
2 A. I think - well, it was - your Honour, it was initially
3 thought that it would be a matter of informal discussion
4 between the person making the allegation or complaint and
5 the person the subject of a licence from the Bishop, that
6 there should be some informal negotiation which may be
7 resolved.
8
9 Q. Sorry, I'm not quite understanding. Are you talking
10 about a conciliation between the perpetrator and the
11 Bishop?
12 A. No, between the unhappy - the aggrieved person and the
13 clergy person.
14
15 Q. Well, what conciliation did you have in mind?
16 A. Initially it was thought to be fairly low-
17 key; it was
18 not a formal conciliation. We --
19
20 Q. But what was the purpose? What were you trying to
21 achieve through a conciliation of an alleged criminal
22 offence?
23 A. No, I wasn't referring to criminal offences at all.
24 I believed they were more in the nature of sexual
25 harassment. That was the initial name of the --
26
27 Q. There's a boundary somewhere in there, but what are we
28 trying to achieve? What is the object of all of this?
29 A. This is at about the same time as the legislation
30 regarding harassment, both State and Federal, came about,
31 and I think it was hoped - and Bishop Roger was very keen
32 for this to happen - that the church should provide its
33 internal committee, that it needn't - that these were
34 fairly what I might say low-key matters. I think that was
35 the - what was thought about it. And I have to be honest,
36 I think we were all learning new things. We didn't expect
37 to have any major issues at all. It was thought that these
38 matters could be resolved by informal discussion. We moved
39 later, and we had mediation training, and it was intended
40 that it may well be a formal mediator and then resolution
41 with contact people assisting.
42
43 Q. And did you intend that to include allegations of sex
44 by a priest with an under-aged child?
45 A. Certainly not.
46
47 Q. What did you contemplate for those?
48 A. They would have been directed by the chairperson to
the Bishop, and probably the Diocesan manager, because at one stage the Diocesan manager became responsible for reporting those matters. There's documentation to that effect.

MS SHARP: Q. Just so we understand the position, if an allegation of child sexual abuse came to the committee, the committee chair would refer that allegation to the Bishop with the expectation that the Bishop would handle it from there?
A. Yes.

Q. And did the function of the committee cease once that referral had been made to the Bishop?
A. Under the protocol that was certainly in place for most of the period of Jean Sanders' period, it's - the jurisdiction ceased, but I noticed that Jean kept in touch with a lot of these people. She was a very conscientious person, went out and visited people, and she tried to act as a facilitator to assist people. But it was really going through the Bishop's office in relation to children.

I think the initial contact would have been through a contact person rather - as a normal thing rather than to the chairperson, although we had regular advertisements in what was called the Anglican Encounter, it is still called that, and they provided the Diocesan normal phone line to contact the switchboard and they were directed as to what to do, if they weren't already aware of it. It wasn't a hotline.

Q. I want to take you to some evidence that has been given earlier in this hearing. Can I show you a document at tab 400, which is a file note prepared by John Cleary of a conversation with Keith Allen.
A. Yes.

Q. Can I take your attention to point 6 of that file note. According to this file note, Keith Allen said that Graeme Lawrence, Jim Helman, Bishop Roger Herft, Robert Caddies, Peter Mitchell, Paul Rosser and KA were on an advisory committee - and you will see from the point 5 that this was the brown envelope committee.
A. Well, there was no such committee.

Q. Well, that's what I want to ask you about. Were you on this committee?
A. No. I was on a casual - one or two occasions where a couple of envelopes may have been talked about, but that was it. I didn't ever handle the envelopes.

Q. Where were the envelopes kept, to your knowledge?
A. I didn't actually know until these proceedings that there was a safe, but I knew it was in a safe place. But they were - I don't know where they were kept, actually, but I knew - I believed they were under lock and key but I didn't know where they were.

Q. To your knowledge was there a committee on which Bishop Herft, Graeme Lawrence, Peter Mitchell and others sat to review the yellow envelopes?
A. Well, I've never heard of it apart from this document. I can recall an occasion when Mr Allen was present, I believe, in relation to some discussion, but it certainly wasn't a review of all envelopes.

Q. In the course of refreshing your memory by reviewing documents in evidence in this matter, have you come across what is described as "the yellow envelope report"?
A. Yes, I have.

Q. You can take it from me that that report identified 36 separate allegations of abuse, and that about 26 of them related to child sexual abuse. Does that number strike you as a high number?
A. Yes, it does.

Q. Were you aware that that volume of child abuse allegations were coming through the yellow envelope system?
A. No, I actually question whether those matters really ought to have been in the envelopes at all. Particularly from 2002, when I think those envelopes were created onwards, they were really - it appears to me that that - that there was a consolidation of the envelopes from various places. Now, I don't know whether they were purely the ones from CASM, but it is clear from what I've read that Ms Sanders sought to bring all of the documents into one system, which seemed a very good idea, including people to - including matters to do with child abuse.

Q. Ms Sanders, who was chair of that committee, said in her statement that she received telephone calls from mothers who reported that their boys were being abused, but names would not be given. Were you aware of those
telephone calls?
A. No, I wasn't.

Q. So Ms Sanders never made you aware of that?
A. I don't recall that at all.

Q. During the time you were on CASM, did you form the view that there was a serious problem with child sexual abuse within the Diocese of Newcastle?
A. No, I don't believe I did have that view, and I believed that we were doing the right things at the time by diverting those matters to the Bishop and the business manager, in relation to child abuse matters, and that the normal protocols would be followed.

If one looks at the 2002 protocol, it's quite clear that children under 16 were actually excluded from it. Having said that, it also seems to me that that seemed to be the place where people rang up and made - and sought direction, "What do I do?" And - so in a sense, these matters arose out of the advertisements and/or other information people had about the existence of this committee, and from there, it should have gone to a different direction.

The matters where I became involved as a solicitor really were legal matters. They didn't - they weren't really matters - they may have gone - been diverted from the CASM channel, which as I said previously was for adults, but they were legal matters as far as I was concerned and they were being handled at Bishop level.

Q. Can I move now to ask you some questions about James Brown. You say in your second statement that you had no knowledge of allegations against James Brown?
A. That's right.

Q. Were you made aware that Phillip D'Ammond had complained to the police about him in 1996?
A. No. I've never heard of those people until this Royal Commission started.

Q. So in 1996 that was never brought to your attention?
A. No.

Q. Even though you were a member of CASM?
A. I don't believe that it was made aware - CASM did
become involved in that at all. I certainly wasn't aware of it.

Q. Were you aware --
A. Sorry, could I say one further thing. There are two James Browns.

Q. Yes, I'm not talking about the member of the clergy.
A. The other James Brown.

Q. I am talking about the social worker/lay preacher.
A. Yes.

Q. So those answers you previously gave related to the social worker James Brown?
A. Yes.

Q. In 1997, James Brown faced a committal hearing in respect of allegations that he had sexually abused Phillip D'Ammond; were you made aware of that at the time?
A. No, not at all.

Q. Does it strike you as odd that the committee was not made aware that a committal was taking place in respect of a member of the church with responsibilities for the church who had been accused of child sexual abuse?
A. Not if you take the view, as I did, that it was, as I said earlier, for adults. I don't - but I probably - we probably would have heard about it. I don't recall anything about it whatsoever.

Q. Can I ask you now some questions about Peter Rushton.
A. Yes.

Q. Did you know him?
A. Not personally, no.

Q. You didn't know him?
A. I knew him by sight and we used to say good morning if he and I were walking - if he was coming in and I was leaving the cathedral. That was it.

Q. You didn't socialise with him?
A. Not at all. I did know quite a bit about him because a colleague of mine in the law was a warden at the St Mary the Virgin, at Maitland. And he had two teenage sons who were altar servers there. They were there for three or
four years. He used to come into work and tell me what was going on there. Not - sorry, I will start again, not what was going on, but what happened in church. He told me quite a lot about Peter Rushton and what - I - so never then, and I've subsequently inquired, did anything ever happen in relation to his two teenage boys. And I was not aware of anything. As far as I was concerned, once I became aware of the pornography issue, I believed that he was gay, but I wasn't aware of any child abuse involving him.

Q. You are aware, and you were aware at the time, that possession of child pornography is a criminal offence?
A. Yes, absolutely.

Q. I want to ask you a little bit about your dealings in that matter --
A. Mmm-hmm.

Q. -- where it was alleged that Peter Rushton was in possession of child pornography. Can I take you to your second statement, please, Mr Caddies, at page 13.
A. May I simply clarify something I just said in relation to saying good morning to Father Peter Rushton?

Q. Mmm-hmm.
A. Those conversations - well, not conversations, those salutations took place after he had retired as a priest from active practice.

Q. Thank you, Mr Caddies. Could I direct your attention to page 13 at Roman numeral (iii)?
A. Yes.

Q. You say that both Bishop Herft and yourself were subsequently satisfied that whilst it was gay pornography, it did not relate to children?
A. Yes.

Q. And you say a little further down that it's your recollection that statements were subsequently provided to you and, in turn, the Diocese. Now, are you sure about that recollection?
A. No, I'm not, actually. I thought at the - when I - I thought - I have a distinct recollection of getting in the car, receiving something important and driving to the then Bishop's Registry with a document and I - in relation
to this matter. I felt that they were statements. But it may have in fact been the letter from Sparke Helmore that came on 7 December 1998. My recollection is that came by fax.

Q. Can I take you to a document at tab 39 of the tender bundle. This is a letter from Sparke Helmore. You will see that you are named as the reference?
A. Yes.

Q. And it is addressed to the senior partner at your law firm?
A. Yes.

Q. May we take it that this letter found its way to you?
A. Yes.

Q. This is a letter of 7 December, and you will see in the bottom paragraph, it says that the writer now holds copies of the statements, then some concern is expressed about defamation, and over the page it is stated that:

... our client will hand over copies of the statements only upon the following conditions --

A. Yes.

Q. And that second condition is that an indemnity is granted. Now, can I show you your reply, which is at tab 40AA. This is a letter - you can take it from me your name appears as a signatory on the second page?
A. Yes.

Q. It is dated 10 December, back to Sparke Helmore. Do you see at the bottom of the first page you say:

If Farraghers are prepared to provide us with copies of their employees' statements, the Diocese would undertake that confidentiality ...

You agree that by this time you didn't have those statements?
A. Correct.

Q. Then we continue:
... we do not believe it is reasonable or necessary to consent to indemnify John Farragher Removals.

A. Yes.

Q. So you weren't prepared to grant the indemnity in order to get the statements?
A. No, we had made our own inquiries - when I say "we", the client made its own inquiries, and also I believed that the word of a fairly senior partner in Sparke Helmore reassuring us that they held these statements and that they were - that there was no child pornography, was a reassurance, that it was not appropriate or necessary - not necessary. I was uncomfortable in giving that indemnity. Had we given an indemnity on the basis that they would be prepared, I would not have - I would actually have not agreed to that.

I believe that I took instructions on that at the time. I had forgotten about all this until this letter emerged during the Royal Commission.

Q. Could I stop you there, Mr Caddies. The point is you never granted the indemnity and --
A. No.

Q. -- you never received the statements?
A. I'm not sure about that, but I don't believe we did. Certainly we didn't give the indemnity, no.

Q. Is it most likely, then, that you did not receive the statements?
A. It would seem that way.

Q. So you relied on what was effectively hearsay about what the contents of that pornography was?
A. No, we had a list of the documents which had been provided and were receipted by the registrar of the Diocese, Peter Mitchell. We were aware of the outcome of Greg Hansen acting as the - I think it was described as the honest broker in relation to inspecting that material.

Q. Can I stop you there. Did it ever cross your mind that Peter Rushton, who was accused of a criminal offence - that is, the possession of child pornography - might not be
candid with the people he was dealing with about that allegation?
A. If it had been as simple as that, yes. We were within 12 to 24 hours of reporting - going to the police, and then the word came back via Colvin Ford that it was not child pornography, and then subsequent matters flowed, including, in particular, from the letter and Sparke Helmore.

Q. Wouldn't it have been more prudent to have reported it to the police and let the police sort it out?
A. With the benefit of hindsight, I think that's true, but I think at the time it seemed the reasonable thing to do.

Q. Was this a missed opportunity for detecting Peter Rushton's paedophilia?
A. It possibly was. However, everything that I understand that has been alleged against him happened prior to that date.

Q. Was this a missed opportunity for detecting Peter Rushton's paedophilia?
A. Possibly.

Q. Are you familiar with - well, he is deceased now - Archdeacon David Simpson?
A. Yes.

Q. There has been a suggestion Archdeacon Simpson destroyed a collection of Peter Rushton's pornographic material. Did you have any knowledge of that suggestion?
A. No, none whatsoever.

Q. Can I ask you now some questions about [CKC]?
A. Yes.

Q. And I will just remind you to use the pseudonym. Thank you.
A. Yes.

Q. I need to show you two letters together, if I might. First of all, the letter at tab 97 that you wrote.
A. Yes.

Q. You have that?
A. Yes.
Q. That is addressed to Peter Mitchell. What you are doing there is enclosing a draft letter for the Bishop; right?
A. Yes.

Q. Can I show that you that draft letter at tab 98?
A. Yes.

Q. Why were you involved in writing letters from the Bishop to the complainant who was making an allegation that he had been sexually abused by [CKC]?
A. Well, I, a couple of months prior, believe I produced records to the District Court exhibits clerk in response to a couple of subpoenas. One was to the Dean and one was to the Diocese. And I haven't seen those actual subpoenas in this material, however, having read my letter up in the second paragraph, it causes me to remember that there were two subpoenas, one addressed to the Diocese and one to the Dean, and I had received a call to assist the Diocese in producing records under subpoena. I attended the Dean's office, because the Bishop was actually not in the Diocese at the time, and the Dean was the Commissary of the Diocese, or the Commissary of the Bishop, and I - my role at that point - and I knew nothing about the prosecution, really other than that it was in relation to [CKC], when I saw the documents - I looked at the subpoenas, looked at the paragraph about what was being sought. I considered whether the material that they had in front of me was responsive to the subpoenas and then I - and I thought there was a book of some nature there, or - it was a black sort of folder with, I think, a ring-back on it. And I believe I then left the Dean's residence and walked around to the court, which would have been 150 metres away, and I attended the court office, not to the court, and I produced these records to the exhibits clerk, and that would have been the criminal jurisdiction of the District Court's exhibits clerk. I think there were two exhibits clerks. And I said, "This case is in the list", and left it there.

So when I wrote that letter, that's all I knew about the matter. I was asked to respond to a complaint. I must have had the complaint, because the second paragraph relates to concern by [CKA] that certain confidential matters had been disclosed. When I read that document, I wondered what it was all about, until I saw the actual complaint that was made by [CKA].
I then provided this draft back to the Diocese. I was unaware of any other matters to do with it, and at that point, that was where I left it. I believe in good faith that I was responding, believing that I had been the person producing the records to the court.

Q. I will move on now. I want to ask you some questions about the defrocking of Graeme Lawrence. It's fair to say you are not happy with that process leading to his defrocking?
A. I'm disappointed about it, I - yes.

Q. And you are not happy with the process that was followed?
A. I disagreed with the - Dean Lawrence's failure to be involved in that process, but I wasn't asked about it, and having read quite a lot of material in this matter now, I am satisfied there was in fact an abuse protocol in existence, which had been approved by the Diocesan Council some years before, and I don't think that was followed in relation to the accused people.

Q. What do you mean? What abuse protocol?
A. Well, it's document 468 in the tab, I think. It's unidentified there. However, my own research has disclosed what it is.

Q. Sorry, so you are saying that you don't think he should have been defrocked because proper process wasn't followed? Is that what you are saying?
A. No, your Honour. All I really ever wanted for Dean Lawrence and for the other people is for a - for due process.

Q. That's the question I was asking you: are you saying that as a consequence the decision to defrock him was wrong?
A. No, I'm not saying that. I'm not happy with the fact that Dean Lawrence didn't participate in those proceedings.

Q. But otherwise you are happy with the outcome, are you?
A. I would have wanted to hear the respondent's position in relation to the allegations, and that didn't happen.

Q. So you are not happy with the outcome?
A. I'm disappointed that they didn't proceed. I - it
may - as a lawyer, and having done some minor judicial work
myself, I believe that it had to go through due process and
what was going to be would be. I certainly was not happy
that they didn't participate in the proceedings.

Q. As far as the ultimate outcome was concerned, do you
think it was right?
A. If one believed the facts as alleged, probably, yes.

MS SHARP: Q. I just want to explore this idea of due
process with you. You were aware that Graeme Lawrence and
others were given notice of the case against them?
A. Yes.

Q. And you were aware that they were given the
opportunity to participate in proceedings before the
Professional Standards Board?
A. Yes.

Q. And you were aware that each of the respondents
denied to participate in those processes?
A. I'm not sure that's quite correct in relation to the
respondent Sturt. He --

Q. Yes, I withdraw that. I will restrict my answers to
Graeme Lawrence.
A. Yes.

Q. You are aware that he declined to participate in the
process?
A. Yes.

Q. And you are aware that he took - once the board had
rendered its recommendation, he challenged that
recommendation in the Supreme Court and challenged the
processes that had been followed by the board in coming to
that recommendation?
A. Yes.

Q. And he lost that challenge?
A. Yes.

Q. Are you meaning to suggest that due process was in
some way denied to Graeme Lawrence?
A. Well, there are a couple of things I would like to
say. Having read the abuse protocol, he should have been
offered Legal Aid that was provided for in the protocol,
and there were various other things - assistance and support - even as an accused person. They weren't followed. I think it was extremely difficult for a person in the position of some of these people to have employed legal advisers. Bruce Hoare was out of work. He was in between jobs. And I think he then went on the pension. I don't - he had no hope of having Legal Aid.

Q. I will stop you there. They ran a Supreme Court challenge, did they not?
A. Bruce Hoare didn't.

Q. Graeme Lawrence did, didn't he?
A. Yes.

Q. And in fact a number of people chipped in and contributed to a fighting fund for him?
A. I --

Q. That's right, isn't it?
A. No, I reject the concept of a fighting fund. That --

Q. A number of people - I will stop you there. A number of people contributed money to aid his legal case, did they not?
A. To defray the expenses he had already incurred.

Q. You were one of these people, weren't you?
A. Yes, I was.

Q. You are not suggesting that Graeme Lawrence could not have come up with the means to defend his position before the board, are you?
A. I doubt that he really could, except that his parents had died recently before that and I think the entire proceeds of that went in legal costs.

Q. So your evidence is that he was in some way denied due process because his Legal Aid would not be funded?
A. I think that - well, it was a denial of the protocol that the church had already set out. We didn't - and I don't think they knew that, I didn't know the protocol existed at that time.

THE CHAIR: Q. Did Dean Lawrence ask you for advice?
A. No.
Q. Did you give him any advice?
A. No. I didn't think it was appropriate. I - he had a solicitor and apparently --

Q. He got advice from someone as far as you know?
A. I'm sorry, your Honour?

Q. He did get advice from a solicitor as far as you --
A. Yes, he did.

Q. And that was advice, as you understand it, during the course of the process; is that right?
A. I'm sorry, your Honour, I can't hear you.

Q. He was advised during the course of the process, and ultimately decided not to participate?
A. Yes. I accept that. I think in a legal sense, I would have to say he wasn't - natural justice happened, but I - in the sense that he was given notice of the hearing, he could have turned up, he could have been represented and chose not to.

Q. It would be pretty hard to say that natural justice was denied in those circumstances, wouldn't it?
A. Yes.

THE CHAIR: I think we might take the morning adjournment.

SHORT ADJOURNMENT

MS SHARP: Q. Mr Caddies, you have referred to document 468. Could I show you that document?
A. Yes.

Q. Is this the abuse protocol that you were referring to?
A. Yes.

Q. I can have the next page shown to you.
A. Yes.

Q. Your position is that this protocol was in some way contravened in respect of Graeme Lawrence?
A. Yes.

Q. Can I take you to pinpoint reference 0034 and draw your attention to paragraph 57 under the heading "Dealing
fairly with Respondents" - do you see that?
A. I'm not there yet, sorry. I'm on 0029.

Q. Could I have the witness shown pinpoint reference 0034?
A. Yes.

Q. Can I direct your attention to paragraph 57 under the heading "Dealing fairly with Respondents". It states at the end of that paragraph:
   
   If possible arrangements should be made to provide assistance to pay for their representation.

A. Yes.

Q. That is not a blanket obligation to pay the full legal costs of the respondent, is it?
A. No.

Q. But is this what you are saying was breached with respect to --
A. I'm sorry, if we could go back up - and that's part of it.

Q. So you say "that's part of it", but there is no binding obligation to pay the full legal costs of a respondent there, is there?
A. Well, it says that they are entitled to be represented before the board and to test the evidence, if possible, arrangements should be made to provide assistance to pay for their representation. I think that "if possible arrangements should be made" is relating to the Diocese, and there is some earlier reference to certain assistance and explanations being offered.

Q. Yes, but what I'm putting to you is there is no binding commitment there to pay the full legal costs of the respondent in proceedings before the board, is there?
A. No.

Q. Can I take you, please, back to pinpoint 0029.
A. Could I just point out here that this document appears to have been unknown to both Mr Elliott and to the previous Director of Professional Standards in their evidence - they didn't know it existed, and I don't think they knew it
existed at the time of the hearing in 2010.

Q. Did you know it existed at the time?
A. No.

Q. So you are pointing out that they didn't know something that you also didn't know about?
A. Yes, but it had been passed --

Q. I'll stop you there. You didn't know, at the time, these board proceedings were taking place, that this document existed, did you?
A. No.

Q. But you are saying today that due process - you believed at the time that due process was breached because something that you say was spelled out in this document wasn't followed?
A. Yes.

Q. But you didn't know this document existed at the time?
A. Well, it wasn't my role to know it. I think that --

Q. But, Mr Caddies, if you were concerned about a so-called breach of due process at the time, it couldn't have been based on any non-compliance with this document, could it?
A. Not in the precise terms of the document, no.

Q. Are you really so sure that due process was denied to Graeme Lawrence?
A. Well, there was one further aspect of this which I thought about during the morning tea break that I think is relevant, and it goes to due process. I think it was extremely wrong that two of them - in terms of the composition of the Professional Standards Board, that two of the people - other than the retired magistrate, the other two people were actually parishioners of the cathedral, Professor Waring, a psychologist, and the other person, Reverend Barbara Howard. They had been quite involved at the cathedral, and in particular with Graeme Lawrence. That seemed to me that that was another matter - they should never have been on that inquiry.

Q. That's not a matter that you have referred to in any of your four statements to the Commission?
A. No, that's correct.
Q. In your second statement at page 7 at (vi), you refer to the allegations against Graeme Lawrence as being untested?
A. Yes.

Q. The reason they are untested is because he wouldn't participate in the proceedings before the board?
A. That's true.

Q. Do you have a concern that one of the most senior members of the Diocese would not submit himself to the procedures that had been duly approved by the Diocese?
A. Well, I believe he was acting on legal advice. I didn't think it was proper for me to comment on it to him.

Q. I'm not asking you what you spoke to him about. Do you think that's inappropriate, that one of the most senior members of the Diocese would not submit himself to the very procedures that had been approved by the Diocese?
A. I think it was very unwise. I think it was very unwise indeed. At the time I thought, well, it must be - I must be out of date and out of touch - you know, he's being advised by lawyers who are engaged for him, to think that they want to challenge it in another place.

Q. Is it right that you don't personally believe the allegations made against Graeme Lawrence that were heard and determined by the board?
A. No, I don't think it's quite right. It's - I heard the evidence given by - excuse me a moment - [CKH] and I thought his evidence to this Royal Commission was impressive and it was credible. But I - I do have a high regard for Graeme Lawrence and I will always have a high regard for him for what he did for my family. So I always wanted him to have the opportunity, which he didn't take advantage of, to test that evidence. He was in a better position than the board was to put forward any defence, if there was a defence.

Q. Is it right that there is a perception amongst a certain group in the cathedral that Graeme Lawrence was unfairly treated by the Diocese in response to these allegations?
A. Well, most of the people, the congregation, didn't know the allegations at the relevant time, and so I think
they were quite - they found it very hard to believe. We
didn't know even what the charges were.

Q. But is there a perception amongst a group - your
    group - of people within the cathedral that Graeme Lawrence
    has been unfairly treated by the Diocese?
A. I don't say it's my group. There's a much wider group
    of people who feel that he was unfairly treated. I'm not
talking about in a legal sense. This man had been our
    priest for 24 years and he had lived through so much with
    so many people. People had a very high regard for him.

I can just speak of my own mother's death, you know,
he was there from 7am in the morning until she died after
midday. And he sat with us, he blessed her, he prayed with
us, we held hands and we said the Lord's Prayer. He sat in
there and when the - when she started to deteriorate, he
    got up quietly and he went - started to say some more
    prayers and then he sat down again. And then, when she
died, he said to my wife and I, and my father - he said,
"Now, Robert, I want you and Jocelyn to leave the room and
    let Bert" - meaning my father - "spend some time with
    Gladys" - my mother. Then he said, "You can come in, with
    Jocelyn, and then the family can come in after that." It
    was this wonderful pastoral care that I can never forget.
To me, you know, not have given $1,500 nine months
later, which was a mere trifle - although it was a lot of
money to me in a sense - for him, I would have given more
if I could have. I can't thank him enough for what he did
for us. That was a story that was common to many people in
the Diocese. He was greatly loved for what he did for
people, and there are very few priests that would have that
giftedness to show that kind of compassion and care that he
showed to my family that day.

Q. Mr Caddies, were you part of a group of cathedral
parishioners who made a complaint to the Episcopal
    Standards Commission about Bishop Farran in 2011?
A. Yes.

Q. Part of the reason for that complaint was because
of the process that was followed with respect to
Graeme Lawrence?
A. Yes, some other people wrote it - yes, that's true.

Q. So you regarded the situation with Graeme Lawrence's
treatment as so serious that it warranted a complaint
against Bishop Farran to the Episcopal Standards Commission?
A. The complaint was much more than in relation to that, but if I could just put a bit of background to it.

Q. No, just answer my questions first of all. That was one of the key reasons why you made the complaint to the Episcopal Standards Commission?
A. One of the reasons.

Q. One of the key reasons?
A. Possibly.

Q. Well, it was, wasn't it?
A. I don't, frankly, remember very clearly about 2011. It was the year my mother died. It was - I was extremely busy in my new job.

Q. I will show you a document, if I may, at tab 281. You will see that's a letter to the Episcopal Standards Commission dated 14 June 2011. This letter is not signed, but you are aware that this letter was sent to the Episcopal Standards Commission. You have seen that before?
A. I really don't remember at the time but I accept that it was probably shown to me.

Q. You will see it refers in the first paragraph to "our group met"?
A. Yes, they are the signatories, I believe.

Q. You were part of that group, weren't you?
A. Yes.

COMMISSIONER FITZGERALD: Can we expand that, please?

MS SHARP: Q. And if I could take you a little bit further down, it says:

We enclose a further complaint against the Bishop of Newcastle.

That is, that he engaged in conduct which is disgraceful. And the third proposition is that he brought the Diocese into disrepute with media commentary on matters before the Professional Standards Committee?
A. Yes.
Q. Now, that was a reference to Graeme Lawrence, was it not?
A. No, I don't believe it was.

Q. What was that a reference --
A. I believe it was a reference to [COJ] and it was a reference to Gumbley.

Q. I beg your pardon?
A. I think it was a reference to two proceedings and announcements in the newspaper in relation to the two previous matters of Gumbley, which resulted in a defrocking, and [COJ] which resulted in a five-year suspension - five-year's qualification, I believe.

Q. Can I take you to the document at 282. You will see on the final page of that document it is indicated that you were a signatory to the document?
A. Yes.

Q. If I could just have that shown to Mr Caddies. You were involved in the writing of this complaint, were you?
A. I'm not sure I saw the final document but I think I must have been.

Q. But you were prepared to put your name to it?
A. I don't know. I didn't sign it, I don't think.

Q. I beg your pardon?
A. I don't believe I signed it.

Q. But it has your name --
A. Yes, I accept that I'm part of it, that - the signatories.

Q. Can I take your attention to the second page of that document. You will see "brought the Diocese of Newcastle into Public Disrepute"?
A. Mmm-hmm.

Q. Now, the complaint here is that he brought the Diocese into disrepute by claiming that Father Peter Rushton was a serial child abuser?
A. We now know that that's probably right, and I don't - I don't think we knew that at the time.

Q. So you didn't know one way or the other, but you
decided to do something so serious as make an allegation against the Bishop to the Episcopal Standards Commission?
A. We had met with the previous acting director, who was in Newcastle --

Q. Just answer my question, Mr Caddies.
A. -- who encouraged us to put a --

Q. Mr Caddies, just answer my question.
A. What is the question, please?

Q. You did not know one way or the other whether these allegations were true, and then you took a step so serious as to complain about a bishop to the Episcopal Standards Commission. Why did you do that?
A. The complaint was in relation to public announcements rather than in relation to the fact that he was bringing it to people's attention.

Q. What is the problem with a bishop announcing publicly once he had good grounds for believing that somebody was a serial child abuser?
A. I've thought a great deal about that issue, and I think that it's very unfortunate, whoever it may be, that, guilty or otherwise, years after they have died, a claim of this nature is made. What is the way to deal with it? It should be something like a fire inquiry, as an inquiry under the Coroner's Act, there should be some investigation in a formal way to decide, other than to announce it in the media.

Q. What about the need to have the victims' stories heard, Mr Caddies?
A. I totally understand that, and I am certainly in favour, totally in favour of that, but perhaps in the sense, there's a situation that as at 2011 and now, where, apart from the Royal Commission, there's no adequate place for these things to be evaluated.

Q. What is happening here, isn't it, is that you are punishing Bishop Farran for bringing these allegations out into the light of day?
A. I'm not punishing him for that, I'm punishing him for the way it happened, rather than the fact of it happening - you, know, the fact that these matters came out.

Q. Well, isn't a good way of bringing these allegations
out into the light of day to tell the media about them?
A. That is one way.

Q. Why is this group so concerned to keep these allegations secret?
A. We weren't concerned to keep them secret. We wanted, again, a proper way of doing it, rather than by announcements in - by press release to various newspapers.

THE CHAIR: Q. What did you want done, then?
A. Well, your Honour, although I was aware of - 14 years earlier, 13 years earlier, of that pornography matter, I was somewhat doubtful at the time as to the - as to what apparently happened with those people. We were not happy with it being announced by newspaper release.

Q. I asked you what did you want done - what did you want done?
A. I hadn't thought about it at that time, what should be done, your Honour, but it was not - I was not happy about it.

Q. You were not happy because it gave publicity to a scandalous allegation in the Diocese; is that right?
A. No.

Q. Why were you unhappy?
A. Because I felt that, again, there should be a due process accorded even to a deceased person, and that certainly something that could have been done wasn't done then, and of course we know a great deal more now about it than I did know then.

Q. The bishop's judgment was absolutely right, wasn't it?
A. It probably was, your Honour, but if you looked at my last statement, there were a lot of issues going on with the Bishop that caused a great deal of grief long before these matters were raised, which caused us - and that is to say, the people in the cathedral - to be very unhappy.

MS SHARP: Q. I said is it correct that two of the major things causing concern to your group were the public airing of Peter Rushton's paedophilic activities and the disciplinary process followed with respect to Graeme Lawrence?
A. They were two of the matters, yes.
Q. They were two of the key matters, were they not?
A. They certainly were - yes, they were probably among
the key, but I think all of these matters were key matters,
actually.

Q. Now, one of the members of your group was
Laurie Tabart?
A. Yes.

Q. And you are aware that Laurie Tabart also made
a complaint to the Episcopal Standards Commission in
relation to Brian Farran?
A. Yes.

Q. Could I show you --
A. Before we leave that document, could I just comment,
if I may, on page 1? It refers to a further complaint.
I don't believe there was any further complaint by these
people.

Q. Could I take you to a document appearing at 276.
A. Yes. Tab 276, is it?

Q. Yes. You will see that this is a complaint from
Mr Laurie Tabart to the Episcopal Standards Commission?
A. Yes.

Q. Could I take you over to the third page of that
document, under the heading "What is the conduct you are
complaining about?" You will see:

The personal attacks by the bishop on the
name and reputation of the Ven. Peter
Rushton.

A. Which item is that, please? Oh, further up. Okay,
yes.

Q. This was one of the key things that your group was
concerned about?
A. I didn't lodge this objection.

Q. You knew about it?
A. Yes. Well, I knew that he was putting in a complaint,
yes.

Q. You supported it, did you not?
A. I didn't see it.

Q. Did you support this complaint?
A. If you will allow me just to quickly look at it, yes. As I said earlier, I didn't know the Reverend Peter Rushton. I never met him. I was relying on what other people told me, and I wasn't happy, based on what I was told, about those matters. I think item 7's slightly different.

THE CHAIR: Q. Mr Caddies, is it not the position that the Bishop had formed the judgment that Rushton was a serious offender and if the church was ever to properly address this issue, it had to go into the public domain and he, the Bishop, on behalf of the church, had to accept responsibility for those who had been hurt? Is that not the position?
A. It obviously had to come out, and it should not have been suppressed, your Honour, and I think one of the newspaper articles at that time refers to an apology to all victims at that time.

Q. So what the Bishop was doing was facing up to the very serious problem of which he had become aware in your church, wasn't he?
A. Yes, that - I believe that's fair comment.

Q. And is it fair to say that you and others didn't like what he was doing?
A. We didn't like the way it was done rather than what he was doing.

Q. Well, you didn't like him putting it into the public domain?
A. Not without perhaps proper investigation.

MS SHARP: Q. Is it right that your group was punishing Bishop Farran for bringing this into the public domain?
A. I don't know that "punishing" is the right word. We were encouraged to bring these objections by the Acting Director of the Episcopal Standards prior to the one that has signed the letter in reply. I personally doubted there was sufficient there to constitute examinable conduct, but we had advice that you should consider going down this path.

Q. First of all, another member of your group was
Christopher McNaughton?
A. Yes.

Q. You are aware that Christopher McNaughton submitted a complaint about Bishop Farran to the Episcopal Standards Commission?
A. Since I've read the tender bundle, yes.

Q. Were you aware at the time?
A. I don't know, actually.

Q. You were part of the group that was making a series of complaints about the Episcopal Standards Commission about Bishop Farran in 2011, weren't you?
A. Yes.

Q. We may assume that you discussed what was going on with members of your group?
A. Yes, we discussed it. I don't know whether I recall at that time that he had lodged his own personal complaint.

Q. Could I take you to the document at tab 277. Just incidentally, how do you know there hadn't been any sort of investigation by the Bishop into Peter Rushton?
A. There obviously would have been some investigation for him to have said it, obviously. I assume that would have been done by the Director of Professional Standards.

Q. I will stop you there. You actually don't know what investigation was done?
A. No.

Q. But you are happy to say there wasn't a thorough enough investigation to go public?
A. If I'm right in this - and again, I approved it - I think what Bishop Farran was trying to do was to get other people to come forward if they had a complaint about the Reverend Peter Rushton. I think that's the - one of the things that's said in the media release, which is in the bundle.

Q. In any event, returning to tab 277, you will see this is another complaint to the Episcopal Standards Commission - this one lodged by Christopher McNaughton.
A. 277? Oh, that's the number of the tab - yes.

Q. Could I take you to the third page, which articulates
what that complaint is. You will see:

In December 2010 Bishop Farran caused ... the convening of a tribunal ... pursuant to the Professional Standards Ordinance.

Then a little further down:

He allowed an illegal tribunal ... without regard to the rules of natural justice. Untested hearsay was broadcast and a disgraceful statement made ...

Now, this is a reference to what happened with Graeme Lawrence, is it not?
A. Yes.

Q. So again, the manner of the process with which Graeme Lawrence was dealt was something that motivated your group to complain to the Episcopal Standards Commission about Bishop Farran?
A. Yes.

Q. Was this punishing Bishop Farran for the way he acted with respect to Graeme Lawrence?
A. No, I think the purpose of the Episcopal Standards is to enable complaints to be made. I don't know that "punish" is the right word.

Q. Did you ever stop and consider what message you were sending to the Diocese more broadly in complaining about somebody who had tried to bring abuse allegations into the public light?
A. Well, it shouldn't have stopped people wanting to come forward, if they - if Bishop Farran was providing that, that wasn't broadcast to the world but - I mean, it was - this was a document that was going to the Episcopal Standards Commission. I didn't see that document at the time in question.

Q. Was the series of complaints your group made about Bishop Farran an attempt to intimidate him?
A. No, I don't think so.

MS SHARP: I have no further questions.
THE CHAIR: Does anyone else have any questions? (Several hands were raised). Have you talked to each other about who should go first? Who should go last?

MR TIERNEY: I'm happy to go first, if it please your Honour, for Bishop Farran.

<EXAMINATION BY MR TIERNEY:

MR TIERNEY: Q. Mr Caddies, can you hear me?
A. Yes.

Q. My name is Tierney. I appear for Bishop Farran. I want to ask you some questions about the evidence that you have just given to Counsel Assisting. Firstly, in relation to your motivation or the motivation of your cohort for making a complaint to the Episcopal Standards Commission, it was, wasn't it, a motivation to have Bishop Farran removed from office? That was the primary motivation?
A. That could have been one outcome, yes.

Q. That's what you wanted to achieve, wasn't it?
A. It wouldn't have altered the outcome of the Graeme Lawrence matter, though.

Q. At the time that you made that complaint, your cohort also approached the Primate of the church, didn't it?
A. Around that time.

Q. And that was with a view to having Bishop Farran removed from office?
A. It - well, again, it was partly to get advice what to do.

Q. You know that on your request --

THE CHAIR: I'm sorry, he didn't actually answer the question, nor the previous one.

Q. Could you answer the question?
A. Could I have the question again, please, your Honour?

MR TIERNEY: Q. The first question was: I am suggesting to you that the motivation, in approaching the Episcopal Standards Commission, was to have Bishop Farran removed from office; do you agree with that?
A. We wanted them to look at the issues. As I already said, I personally didn't consider the material was sufficient to justify that. However, we were - we received certain advice which encouraged the group to lodge those complaints.

THE CHAIR: Q. Well, if you didn't seek to have him removed, what were you seeking to achieve?
A. If you read the fourth statement I put on, your Honour, in evidence, it was really that this was a culmination of many factors. Our cathedral congregation had been greatly reduced in numbers and we - and when I say that, the congregation - largely felt that Bishop Farran was responsible. We felt that he was - I don't really wish to say all these things.

Q. Mr Caddies, you're not answering my question. If you didn't seek to have him removed, what did you seek to achieve?
A. An investigation by the Episcopal Standards and to see what might come from it.

Q. Well, what outcome could have come from it, apart from having the Bishop removed?
A. I'm sure there were other things other than removal of a bishop.

Q. Well, what did you have in mind?
A. Well, I think there would be opportunities for cautioning him and things of that nature. We were very unhappy about Bishop Farran.

Q. You wanted him removed, didn't you?
A. Probably that would have been a good outcome, as - in many ways. However, it would not have altered, in my view, the procedure that related to Graeme Lawrence and the others that was before the Supreme Court.

Q. Maybe not. But have we finally got to the answer? Is the answer yes, you wanted him removed?
A. I don't think it was as strong as that, but, yes, we were very unhappy.

MR TIERNEY: Q. Well, it was clearly the purpose of your approach to the Primate, wasn't it - to seek the removal of Bishop Farran?
A. We wanted advice. We knew that he didn't personally...
have the power to do that.

Q. You know that Archbishop Aspinall has provided a statement to the Commission, don't you?
A. Yes. I haven't read it recently.

Q. You have read it?
A. Oh, three months ago.

Q. You know what he says about having met with Bishop Farran following the representation from your cohort, don't you?
A. Yes, I think I do.

Q. Do you wish to change the answer you just gave?
A. I would need to re-read that, if you wouldn't mind.

Q. I want to ask you some questions about a letter that you wrote to Bishop Farran on 26 May 2012.
A. Yes.

Q. It is at tab 295.
A. Yes.

Q. If that could be brought up, please, if the first page could just be enlarged. Do you recognise the letter that I'm referring to?
A. Yes.

Q. You are the author of that document; is that correct?
A. Yes, I am.

Q. That document was sent by you to Bishop Farran roughly a month after the decision from Justice Sackar in the Supreme Court, wasn't it?
A. Correct.

Q. You tell the Commission that at that stage you still maintained concern about the process of the Professional Standards Board?
A. Yes, I was unhappy about the process. I was unhappy at the fact that Graeme Lawrence had not participated in it, and I think the letter really speaks for itself.

Q. Well, I suggest to you that it does in some respects but perhaps not in others. Can you identify the purpose of the letter? Was it that you were writing representations
on behalf of your friend Graeme Lawrence and Father Graeme Sturt, or were you articulating concerns that you held, as a very experienced lawyer, in relation to the process that had been followed by the board?

A. Yes, I was doing those things. I mean --

Q. Well, were you doing all of those --

A. I mean Father Graeme Sturt was --

Q. Just a minute. Were you doing all of those things?

A. Possibly, but that - I think what I was really hoping was that the Bishop could refer it back to the board to deal with the opportunity for Father Graeme Lawrence and others to participate in a further hearing. I didn't know that the subsequent board at that stage would be constituted by a different group of people.

Q. Now, to your knowledge, Bishop Farran would have respected the views that you were advancing to him at the time of receiving that letter because of the positions you held in the church; do you agree with that?

A. Possibly, yes. I think he makes the comment in reply that he appreciated my line of thought.

Q. You had been the appointed legal adviser to the Diocese until 2005?

A. Yes, within a month or so of Bishop - three months of Bishop Farran arriving, I ceased to be involved with the church as a legal adviser.

Q. At the time of writing this letter, you held the position of chairman of the audit committee of the Diocese as well, didn't you?

A. Possibly, mmm.

Q. Notwithstanding the fact that a short while before that, you had funded or partially funded a legal action against the Diocese's interests?

A. No, I think I was - I was trying to defray a debt that had already been incurred.

Q. But you knew that there would be costs consequences of that litigation, didn't you?

A. Yes.

Q. And at the time that you funded Graeme Lawrence's - or contributed to Graeme Lawrence's legal fees, you were aware
that the outcome of that litigation would likely involve
a costs order being borne by the unsuccessful party; do you
agree?
A. Yes.

Q. And at that stage, as the chairman of the audit
committee, you didn't have any concerns about a conflict of
interest?
A. I didn't at any time in my own mind believe that that
litigation would be successful by the people that brought
it. So I didn't address that issue.

Q. So your evidence is that you felt comfortable funding
or contributing to the funding of a prospectively
unsuccessful piece of litigation that would still likely
involve some unrecovered expense on the part of the
Diocese; correct?
A. Well, I actually think they were covered by insurance.
It wasn't a direct --

Q. You didn't ever tell Bishop Farran that you were
contributing to the expenses of Graeme Lawrence, did you?
A. No.

Q. Did you make it known publicly that you were
supporting Graeme Lawrence at that time?
A. People knew I was friendly with Graeme Lawrence, that
I was concerned about it. I also expressed the view to
many - some of my friends, I doubted the wisdom of the
proceedings. However, I was willing to contribute because
I knew he had incurred a debt of hundreds of thousands of
dollars.

Q. If you go back to the letter, I want you to look at
the second-last paragraph of page 1. In that paragraph,
you express some troubling sentiments given the fact that
the evidence of the complainants before the board was not
truly tested as to its veracity or reliability?
A. Yes.

Q. You were expressing that view as a lawyer, weren't
you?
A. Yes.

Q. And you were hoping --
A. Also coupled with, I suppose, gossip or information
about the denial of the veracity of the claim. I didn't -
Q. That's not what you are saying, though, is it, Mr Caddies?
A. No, I'm --

Q. You are specifically addressing the process that was pursued by the board and the fact that untested evidence was accepted by the board.
A. I think they had no choice but to accept it.

Q. That's correct, isn't it?
A. Mmm.

Q. There was no failure in process at that stage that needed to concern you at all?
A. From a legal point of view, I agree.

Q. So that the advice that you were giving to Bishop Farran, in that sense, was incorrect, wasn't it? It couldn't possibly have been troubling to you as a lawyer that a party, a respondent to a serious allegation of misconduct, who chooses not to involve themselves in the proceeding, has in any way been the subject of any injustice by the process?
A. Yes, but if you look then at what I raised at the end, and I may be wrong about this --

Q. Just before we get to that --
A. -- but I felt it was open to come back - open to the matter to be reconsidered, along with the evidence by the same complainant against other accused people.

Q. All right. Now, look at the next paragraph. You refer again in the second line to "largely untested evidence"; do you agree, the same sentiment?
A. Yes.

Q. And you then question the decision of the legal adviser to Mr Lawrence?
A. Yes.

Q. To advise him not to participate in those proceedings - that's correct, isn't it?
A. Yes.

Q. If you look at page 2, if we can go to the second
paragraph of page 2?

A.  "It is disturbing" - is that the paragraph you are referring to?

Q.  The second paragraph of page 2 beginning "Is there any way you could direct the inquiry to be re-opened"?

A.  Yes.

Q.  What you were asking Bishop Farran to do then, at that point in time, was to go back to the commencement of the whole process and reconvene hearings; correct?

A.  No, I'm not sure that that necessarily followed. I presumed that he would consult the Chancellor, who was a very eminent equity lawyer of the highest calibre, Chief Judge in Equity at some stage --

Q.  Notwithstanding the advice of the Chancellor, you have proffered your own advice, haven't you --

A.  No, I was suggesting, "Is there any way you could direct".

Q.  You do more than that. You then say:

I would have thought it is legally permissible for you to do so.

A.  Yes.

Q.  Again, giving legal advice?

A.  No.

Q.  Not so?

A.  No, I don't believe so.

Q.  Well, what were you attempting to convey by that sentence?

A.  I wasn't giving a concluded view; I was simply suggesting that this may be a way forward to overcome the disappointment or dissatisfaction by some people, and the Bishop knew that I had expressed this to him, that many people had difficulty accepting the outcome.

Q.  I suggest to you that at the time of penning that letter, you had spoken to Graeme Lawrence and/or Father Sturt about the shortcomings of their legal advice?

A.  No, I didn't. I can say this: I actually faxed this to him, I believe, or emailed it, and said, "Have you any
objection to my sending this?"  I had already prepared the
letter.

Q.  To Graeme Lawrence?
A.  Yes.  I didn't have any real involvement with
Bishop Graeme Sturt - I knew him, but that was it.

Q.  So, to that extent, paragraph 2 was conveying what you
understood Graeme Lawrence's wishes were for the process to
be reconvened; is that correct?
A.  No, I only knew that he had no objection to my writing
the letter.  I had already written it.

Q.  So your evidence to the Royal Commission is that this
was just an abstract process which you initiated to
reconvene a process on behalf of two people who hadn't
consented to that course at all?
A.  I was very upset during the course of a luncheon.
I came back to the office I was working in and I set about
writing that letter.  I was in a legal office at that time
and I typed that out.  When I eventually settled it to my
own satisfaction, I am pretty sure I sent it to
Graeme Lawrence by email and said, "Have you got an
objection to my sending it?", and he wrote back, "No".
I think he may have phoned me as well, but there was no
- I had already settled - the letter was ready to go; it
wasn't changed by him.

Q.  You would concede, Mr Caddies, that a reader of
paragraph 2 of that letter would understand that you are
making a request on behalf of the nominated persons
referred to in the letter; correct?
A.  Well, that may be your interpretation.  That wasn't
the case.

Q.  Do you think that Bishop Farran may have been misled
by the interpretation that I've just suggested to you?
A.  No, I don't believe so.

Q.  In paragraph 3 of page 2 you refer to possible
difficulties that might arise from the public nature of the
process; correct?
A.  Excuse me, can I read it, please?  Yes, I've --

Q.  Notwithstanding that a decade or more before, you had
actually given advice to the Diocese and conducted a series
of seminars or information programs about qualified
privilege and what it would mean in disciplinary proceedings?
A. Yes, in relation to claimants making --

Q. And in 1996, having received advice from Mr Littlemore QC as to the ambit of qualified privilege and malice; is that correct?
A. Yes.

Q. You see, what you are attempting to do there is raise an alarmist view about the prospect of any publicity being attached to disciplinary proceedings having consequences in defamation. That's what you are trying to do, isn't it?
A. No, I would - I was trying to draw attention to the need, in such an inquiry, to limit to those entitled, and what, in fact, this tribunal or board was doing was formulating a recommendation. It was not, as I saw it, a form of creating some kind of res judicata that was irreversible. That's why I raised the possibility it might be capable of being reopened. I didn't have a firm view about it myself, but it seemed to me a way of possibly overcoming disquiet by many people.

Q. Just go back to paragraph 2, Mr Caddies. Is it your position that having been aware that Justice Sackar had delivered judgment on the failed challenge to the process a little over or about a month before you wrote this letter, that you genuinely believed that it was permissible for Bishop Farran to re-open the whole process at that stage?
A. Yes, I think that was a possibility.

Q. At paragraph 4 of page 2 you make the comment, or your observation, that Bishop Farran's position has been compromised.
A. That was my view, yes.

Q. You were attempting to intimidate him to your way of thinking as to what should happen to Fathers Lawrence and Sturt, weren't you?
A. No, I was not attempting to intimidate him at all. I was pointing out what I believed was the position that he was put in. His hands had, in my view, been tied by the way in which the determination by the board, which was a recommendation, was announced to the media.

Q. Just move down, please, to the second-last paragraph.
Do you agree that what you were seeking to convey in that paragraph, or what you were requesting, was in fact some leniency to be extended to Fathers Lawrence and Sturt; correct?
A. Yes, that's what - but in turn, in context, I was seeking to argue or raise with the Bishop the possibility of it being reopened, that they might be given what I saw as a further opportunity which they had not taken in the first place.

Q. What do you understand by the expression "locus poenitentiae"?
A. I think it means - maybe it was the use of the wrong words - I think it is a place for redemption.

Q. You in the law speak of it often, don't you?
A. Yes.

Q. Well, what does it mean?
A. There is always the hope, as I understand it, that you are not closed off forever about a particular point. I think it does mean a place for redemption.

Q. Are you sure about that?
A. I'm not 100 per cent sure.

Q. And yet you sought to elevate the status of your advice by invoking a Latin maxim that you tell the Commission you are now not sure what it actually means; is that correct?
A. I expected Bishop Farran to get legal advice probably from the Chancellor on that letter.

Q. Now, in the next sentence you refer to the report seeming to countenance no shades of grey. What shades of grey did you see relevant to Bishop Farran's deliberations at that stage?
A. At the time in question I had only cursorily perused the determination. I didn't retain a copy of it.
However --

Q. What shades of grey did you then consider were appropriate for Bishop Farran to take into account?
A. There could have been more extreme circumstances in relation to what actually occurred, and in particular in relation to Reverend Sturt, it was - in my view it was a lesser degree of culpability, if one accepted the
evidence, in fact, as determined by the board, by Sturt as compared to Lawrence, yet the same penalty was there being proposed by the board, which Bishop Farran in his - ultimately didn't accept.

Q. So you had a view about relative culpability of the men involved in this incident; is that correct?
A. Well, if I were to be deciding it myself I would have to really study it in much - in great detail, so I don't have an absolute view at all.

Q. Well, you wrote the letter, sir. You don't need to study it, do you? You wrote the letter?
A. It appeared to me that there were more extreme cases. Now --

Q. You had a subjective view about Graeme Lawrence at that time, didn't you?

MS SHARP: Your Honour and Commissioners, at this point I object. It seems we are going again over territory that I've --

THE CHAIR: No, I will allow the question.

MR TIERNEY: Q. You had a very strong subjective view about Graeme Lawrence, didn't you?
A. I certainly had a subjective view but I also would have - I was certainly always minded that whatever was to be decided needed to be dealt with in an objective way. It was - I would never, in myself, have been involved in this case. I would never have sat on such a tribunal. Had I been asked, I would have refused.

Q. Did you have a view that Graeme Lawrence's culpability for the incident was less than that of the others involved?
A. I hadn't seen the other determinations; I don't think they'd even taken place at that point. But having read them now, I think there is certainly greater culpability on - in the matter of Duncan in particular, and I did believe that - from what I had been told that there was a possibility that on one of those occasions Graeme Lawrence hadn't even been there at all, and that if that was so, that was a matter of considerable concern to me, even though, based on the Supreme Court decision, it was - that point could not be challenged, but in a way I've suggested, I believed it was not a concluded tribunal;
I believed, in my mind, that there was a possibility that
that could be reopened.

Q. Mr Caddies, do you tell the Royal Commission now that
in giving that letter and that advice to Bishop Farran you
were influenced by your personal feelings towards
Graeme Lawrence or do you say that you were giving
objective legal advice to assist Bishop Farran?
A. I hoped that it was balanced and reasonably objective
advice, but I probably wouldn't have written it at all
except that I regarded Graeme Lawrence as a friend and
I was concerned.

Q. Do you know, sir, in your statement of 21 July,
responding to questions from the Royal Commission, you said
this - this is at paragraph 8 on page 7 of 19
I did not provide legal advice in relation
to this person.
That's Graeme Lawrence?
A. Yes.

Q. Is that correct --
A. Absolutely.

Q. -- in view of the answer you just gave?
A. In relation to this letter?

Q. Yes.
A. I don't believe this is legal advice at all.

Q. And in the same statement in relation to Father Sturt,
page 10, paragraph (v)(f) you said:
I have not as far as I'm aware, and to the
best of my recollection at this time, had
any correspondence or exchanged any
correspondence with any person about the
alleged abuse.
A. Yes.

Q. Do you wish to change that evidence?
A. Alleged abuse by Graeme Sturt? I'm not - well,
I don't think it was about the alleged abuse; it was about
that letter of 26 May 2012, it was about a process and
about whether it could be reopened. I wasn't thinking of it in those terms at that time, as being possibly correspondence about the alleged abuse, but I suppose writing to Bishop Farran may have been in that category.

Q. In answer to a question from Counsel Assisting, you said in relation to your view about these matters, as to whether they occurred - I think you said:

If one believed the facts as alleged, probably, yes.

A. Yes.

Q. Do you believe the facts as alleged?
A. I said before that I believed that the evidence of - sorry, I'll just check the name - [CKH] - was impressive and credible, but I would like to have seen the respondent's.

Q. Do you accept the evidence?
A. I am - I don't think it's fair for me to - as a friend, to - I couldn't - I really can't say I accept it or don't accept it. I would like to - I would like to have seen it tested. But - that's my concern. That may not mean cross-examination, but I would like to have seen Graeme Lawrence give evidence.

Q. Do you now accept that Graeme Lawrence and Graeme Sturt abused children?
A. Based on the evidence I would have to say yes, but I don't know.

MR TIERNEY: Yes, thank you, Mr Caddies.

<EXAMINATION BY MR O'BRIEN:

MR O'BRIEN: Q. Mr Caddies, my name is O'Brien and I represent, amongst others, for the purposes of this examination, [CKA].
A. Mr O'Brien, I'm having trouble hearing you.

Q. I represent [CKA].
A. Mmm.

Q. I want to ask you about a fairly discrete portion of your evidence and that's in relation to your involvement in
the prosecution case and your assistance to the Diocese with [CKC] in the [CKC] matter - do you understand?
A. Yes.

Q. You said in answer to Counsel Assisting earlier today that you received from the Diocese a couple of subpoenas.
A. Yes. I attended the Dean's office and I was shown some documents. That's my recollection - only based on what I have since read, yes.

Q. Did the Diocese provide you - the Dean, the Registrar, the Bishop or anyone else - with subpoenas to produce documents?
A. I believe they did.

Q. And is your evidence today that there were two subpoenas?
A. That's my recollection. I was - I remember --

Q. Are you saying you are not sure about that?
A. Yes. I do remember that earlier subpoena addressed to a court in Port Macquarie. I, at the time, thought it was a bit odd. But I don't think that that was the subpoenas that I was responding to.

Q. I want to show you tab 66. When this comes up on the screen, I want to tell you what has emerged in this Royal Commission at this point, if you are not otherwise aware - that the Royal Commission has done an extensive search of the DPP records, as I understand it, the Diocesan records and court records in relation to this matter; do you understand that?
A. Yes.

Q. This is the only subpoena that has been uncovered in relation to this prosecution; do you understand that? Do you understand that?
A. Yes.

Q. That's the nature and state of the evidence. Is this the subpoena that you were asked by the church to consider response to?
A. Having reread the draft letter that I have provided to the Registrar of the Diocese at the time, and that would have been within a couple of months of it happening and I would have had some paperwork, I believe that I responded to two subpoenas, to the Dean and to the Diocese, and
I thought it was very odd, because, to me, in the relevant
sense, that would have been the same entity. I don't -
I cannot be 100 per cent sure.

Q. You have given a number of statements to this
Royal Commission, haven't you?
A. Yes.

Q. And one of them that you have been taken to
extensively by Counsel Assisting and also by counsel for
Bishop Farran, was prepared in July of this year, 21 July.
That is in the statements bundle --
A. Sorry, this is my statement, is it?

Q. Your statement, tab 6 of the statements bundle.
Perhaps if you can go to the fifth page.
A. I don't have that in front of me, I'm sorry.

Q. It will be shown to you.
A. Are you asking me to look at [CKC], is that right, at
the top of page 5?

Q. Yes. Now, you have been asked to respond to a series
of questions by the Royal Commission. I take it from that
you have done your very best to provide an honest and
accurate account, to your best knowledge and belief at the
time; is that right?
A. Yes.

Q. And you talk about the prosecution and your
involvement in the prosecution of the [CKC] matter - yes -
in this portion of your statement?
A. Yes. One of the documents I have seen refers to
a production - the Diocese re production under subpoena.
It was simply, as far as I was concerned at that point,
complying with some records. A subsequent file was opened
in relation to [CKA], but I don't - at that time, it was
simply responding to a subpoena or subpoenas.

Q. I want to take you to point (viii), so it is on the
next page.
A. Mmm-hmm. Sorry, yes.

Q. I do not recall having provided legal
advice in relation to this person. I do
recall complying with a subpoena on behalf
of the Diocese.

Do you see that?
A. Yes, I think I need to read the question, I'm sorry.
I - yes, yes.

Q. So in that portion of your statement, you have referred to a single subpoena - that's the case, isn't it?
A. Yes, it does say "on behalf of the Diocese", but - yes. But I don't know whether I had that other letter at the time, but it - I do recall thinking it was very strange that it was a subpoena addressed to the Dean.

Q. You see, you have said in your evidence today that there are a couple of subpoenas?
A. That's what I'm saying.

Q. I have just told you that there is evidence in these proceedings, which have extensively considered and investigated that matter, and only one subpoena has turned up; do you understand that?

MS SHARP: I object to that question. There is only one subpoena in evidence at the moment, but I am instructed that the Commission does possess a subpoena that was addressed to Graeme Lawrence, and I'm concerned that this questioning might proceed on a false basis.

THE CHAIR: Maybe you might talk to Mr O'Brien while we have lunch and sort it out.

MS SHARP: Yes.

LUNCHEON ADJOURNMENT

THE CHAIR: Have we sorted that matter out?

MS SHARP: Yes, I have. Can I tender a document, your Honour, which is a subpoena for production issued in the [CKC] criminal prosecution addressed to Graeme Lawrence. I will hand up three copies.

EXHIBIT #42-106 SUBPOENA FOR PRODUCTION ISSUED IN THE [CKC] CRIMINAL PROSECUTION ADDRESSED TO GRAEME LAWRENCE

MR O'BRIEN: Q. Have you seen this latest exhibit?
A. No.
Q. Can the witness be shown exhibit 42-106, please. Do you recognise that?
A. Could I see the second page, please? Yes, I am seeing it. I believe that's the document I had in my possession or for perusal on the day that I attended the Dean's office.

Q. So you had this subpoena here, which is dated 26 July 2001. That's the date on which it was returned to the courthouse. Do you see?
A. I think it's the return date. I don't know whether what it is actually dated.

Q. It is the return date of 21 July 2001; is that right?
A. The 26th, yes.

Q. Sorry, 26 July 2001. Do you know how long you had had the material that was produced before you actually produced it to the registry?
A. Five minutes. I attended, I perused the documents, I made a decision about whether the material was responsive to the subpoenas and I walked around the corner with the material, and I believe I then attended the exhibits clerk in the District Court and lodged it there, and I also mentioned that it was pending in the District Court.

Q. If we look at the schedule of this subpoena on the second page, it says:

All file notes, letters received or letters or memorandums sent by you to any person, together with details of any phone conversations that you have made as a result of a complaint by either [CKA] or [CKB].

Do you see that?
A. Yes.

Q. That's a particularly specific schedule to a subpoena, isn't it?
A. Yes.

Q. Did you have a discussion with the Dean at all in relation to the documents that were produced when you received them from the Dean's office?
A. Yes, I think he was there. It was a brief discussion. I was satisfied that the material I saw was responsive to the subpoena and I said, "Well, we have to produce it." And I did.

Q. Did you note that the material that you were given was directly responsive to the call on the subpoena?
A. I don't remember.

Q. I am suggesting to you that the schedule to this subpoena is so specific that it seems to indicate that Mr Allen has a keen knowledge as to what Dean Lawrence had within his possession, doesn't it?
A. It's a very specific subpoena. I don't know quite why it was worded in that way, but obviously it was deemed via the defendant's lawyers that it was relevant to the proceedings. I didn't really know much about the case at all, so I simply produced the documents.

Q. And you produced them as soon as you were given them?
A. Yes.

Q. And that was some date, I presume, on or around 26 July 2001?
A. I would say so.

Q. I want you to have a look at tab 42, please.
A. Yes.

Q. Do you recognise that document?
A. Only from these proceedings I believe.

Q. Could I suggest that that was one of the documents that was produced pursuant to this subpoena by you?
A. Well, it appears to be responsive to the subpoena. I suppose it was produced by me. I don't know, I can't remember the documents.

Q. You can't remember it?
A. I - I don't remember what the material was I produced by way of file notes and memoranda of that nature. I simply dealt with it at the time. It was a routine matter for me to do that and I simply complied with the subpoena.

Q. This subpoena, as we have uncovered, calls for details of phone conversations between [CKA] and Graeme Lawrence,
and this document obviously records such a telephone conversation on 8 January 1999; do you accept that?
A. Yes.

Q. So can we presume, therefore, that this was one of the documents that Graeme Lawrence provided to you in answer to this subpoena issued by Keith Allen?
A. That's probable. It certainly relates to the subpoena. If it was given to me, I would have determined that it was relevant and I would have said it had to be produced.

Q. One of the things that's mentioned in that telephone call by [CKA] to Graeme Lawrence, if we go down further on the page - I am sorry, it is further up. I beg your pardon, it is on the first page. It is towards the top. It is the fourth paragraph down:

[CKA] said that his Mother had brought this to the attention of Bishop Shevill and that he had spoken to Bishop Appleby but that "the matter had been swept under the carpet."

Do you see that?
A. Yes.

Q. The evidence in these proceedings, Mr Caddies, from Bishop Appleby, is that he received a telephone call from Keith Allen in relation to this complaint in around June 1999. Do you understand that?
A. I will accept what you say. He wouldn't have been in the Diocese at that time I don't think.

Q. No, he was in the Northern Territory.
A. Oh, I see. Okay, yes.

Q. You understand that?
A. I do.

Q. A telephone call from Keith Allen about this complaint being made to Appleby some time prior to 1999; do you understand that? That's the state of the evidence?
A. Yes.

Q. That suggests, doesn't it, that Keith Allen had an understanding of the confidential communication between
[CKA] and Graeme Lawrence before this material was produced to the court under this subpoena; do you get that?
A. Yes, I understand what you are saying. That's possibly so, yes. It may have come from another source. I don't know. That wasn't my concern.

Q. You were a member of the CASM?
A. Yes.

Q. Between 1994 and 2002; is that the case?
A. Yes.

Q. The CASM dealt with - I think you have described them as manila envelopes; is that right?
A. Yes - initially, yes.

Q. A conversation such as the one recorded in this particular memorandum, this document here that is on the screen, in tab 42, would that be the sort of document that was contained within a manila envelope?
A. I would expect it would be --

MR TAYLOR: Might I object to that? It is asking for speculation about matters that - Mr Caddies wasn't necessarily personally aware of what was in the manila envelopes.

THE CHAIR: No, I think the question is slightly different to that. I will allow the question.

MR O'BRIEN: Q. Is it the type of document that would be contained within the manila envelopes about which you were concerned in CASM?
A. I don't think this would have been a matter for CASM, actually, but if it were a matter for CASM, then that's the type of document I would expect in the envelope, yes, if it had come to the attention of the chairperson.

Q. You see this document was later uncovered by the Royal Commission within a yellow envelope; do you understand that?
A. Yes, I understand they were replaced, apparently, by later envelopes, yes.

Q. So it may well have been the case that it was - I appreciate that you don't know; you have said so. But it may well have been the case that this was in a manila
envelope when you were at CASM and was transferred into
the yellow envelope that has been uncovered by the
Royal Commission. Is that the case? Is that
a possibility?
A. Oh, if it were in the manila envelope, I would expect
6 l it would be transposed completely, unless there was
some special reason to put it - it would just go into the
new envelope.

Q. So in your time at CASM in 1999 through until 2001,
when this document was produced under subpoena, who had
access to it, if it was in the manila envelope or the
yellow envelope?
A. I think it would have been the Bishop and the
chairperson, would have been - and/or the registrar,
probably two people at once.

Q. Peter Mitchell?
A. Or the - and/or - Peter Mitchell or the Bishop, on the
one hand, and the chairperson - the chairperson of --

Q. CASM?
A. -- CASM on the other.

Q. Who was the chairperson?
A. At --

Q. 1999 to 2001?
A. I think it would have been Lynn Douglas.

Q. And yourself?
A. No, I never had access to the envelopes.

Q. Of course, Graeme Lawrence knew of the existence of
the document; correct?
A. Well, I think he created it, didn't he?

Q. Yes.
A. I'm sorry --

Q. So if this document had been given to Keith Allen, or
the contents of it had been described to Keith Allen by
someone, it would have been any of those people; correct?
A. Yes.

MS GERACE: I object to that question. It has been
answered but the propositions don't follow. The final
proposition put to this witness doesn't follow from the
answers given by Mr Caddies.

THE CHAIR: The question has been answered and the answer
will stand.

MR O'BRIEN: Q. Do you have any idea who provided
details about the confidential conversation between [CKA]
and Graeme Lawrence to [CKC]'s lawyer, Mr Allen?
A. I have no idea. It would be merely speculation on my
part.

Q. Do you know at what stage the proceedings had reached
when you came to answer the call on the subpoena exhibited
at 42-106?
A. I think it was pending in the list. I think that
there was no formal answer to the subpoena; I simply lodged
it with the exhibits clerk and left it there, and pointed
out that the matter was pending.

Q. It was pending for trial; correct?
A. Yes, I believe so.

Q. The committal had run, had it not?
A. I didn't know anything about the detail.

Q. Well, I'm suggesting it was pending for trial - you
agree?
A. Yes, it probably had a committal before that.

Q. If there had been a committal - whether you know about
it or not; in fact there had been - it had already run its
course, correct?
A. Yes.

Q. Can you explain then why it was that [CKA] was
cross-examined by the lawyers for [CKC] in relation to the
conversations that he had had with Graeme Lawrence in 1999
the subject of which was in this document?
A. Do you mean at the committal or at the --

Q. At the committal.
A. I don't know. I have no way of knowing.

Q. Again, it would suggest, if the conversation which he
was asked about related to this document, that this
document was already in the hands of the defence lawyers
for [CKC]; correct?
A. Possible.

Q. Do you know how they came to have it?
A. No, I have no idea.

Q. When you drafted the letter for the Bishop, at tab 98, if you can be shown it again, you were responding to a concern by [CKA] that confidential conversations were provided to [CKC]'s defence counsel; do you see that?
A. Yes.

Q. You said:

Those documents were produced --

The effect of what you said is those documents were produced at trial upon subpoena?
A. That was my belief, based on the fact that I had produced them, yes.

Q. If there has been conversations between the lawyer representing [CKC] and Bishop Appleby prior to [CKC] even being charged - do you understand that?
A. Mmm-hmm.

Q. And if there has been cross-examination of [CKA] in relation to these same conversations, these confidential conversations, do you accept that that advice that you have given to [CKA] is wrong?
A. If that is the case, yes, that would have been wrong, but I didn't know that.

Q. You said in your evidence adduced by the learned Counsel Assisting before the Commission that you believed in good faith that you were reporting to him what you believed to be true?
A. Yes.

Q. It's obvious that you were reporting to Mr [CKA] something which was, in fact, wrong.
A. Yes, it would appear so.

Q. And, in fact, you seem to have been misled by someone or a group of people within the church; do you accept that?
A. It's possible but I think I simply received the letter - I thought I knew about what had happened, that I'd
produced the documents and I composed this with a view to
the client, the Diocese, looking at what I prepared and to
make adjustments as appropriate. It didn't occur to me
that there was anything antecedent to that that I -
I didn't think I - I thought whatever it was was simply
what I produced to the court.

Q. But I've demonstrated to you, over the course of the
evidence in this Royal Commission, it seems, they had the
information that you thought you had produced for the first
time well before you produced it.

MS GERACE: I object to that question. What was put to
this witness was that similarities between documents or
questioning suggested that that fact might have occurred -
that is, the documents might have been in the hands of the
defence. This witness accepted that as a possibility.
This question is premised on that as an actuality as
opposed to a possibility. It is an unfair question and it
is not borne out by the questions and answers that preceded
it.

THE CHAIR: I will allow the question.

THE WITNESS: I'm sorry, would you mind repeating the
question.

MR O'BRIEN: Q. If it was the case - if it was the
case - that the confidential communications that had been
complained about by [CKA] had in fact been released other
than by subpoena and well before July of 2001, then you
have been misled by someone within the church; correct?
A. Yes, I think that - either intentionally or otherwise.
I have no idea. I simply prepared a document based on what
I thought I knew because I thought I'd produced the
documents, so I returned the document to the registrar and
I expected that it would be put on to a letterhead with
appropriate adjustments made.

Q. But what seems to be the case is that you had been
either ill advised, poorly instructed or there had been
a fundamental failure to tell you that the documents may
have been produced earlier to the defence; correct?
A. All I can say is I was not aware of any such thing
happening, but you are talking about subsequent events
transpiring, which --
Q. Well, I'm talking about a serious concern raised by
[CKA] in relation to the release of confidential
communications. That's significant, isn't it?
A. Yes.

Q. It's important, isn't it?
A. Quite.

Q. And you are responding to it as the lawyer for the
Diocese; correct?
A. Yes.

Q. You don't want to be factually wrong about how those
documents came to be with the defence counsel and for him
to be cross-examined about it; correct?
A. Yes.

Q. So if you have been materially misled in relation to
that, you must wonder, "Who misled me? Who was it?"
A. Well, if the document had been leaked before, I don't
know who did it. I have no idea. All I was doing was
responding to a subpoena and responding then to a letter,
which I believed related to the documents which were
produced by me to the court - at the District Court.

Q. Does it not trouble you as a lawyer of 45 years
standing that you have been misled by your client?

MR S HEALY: I object. The objection echoes that
previously made, but --

THE CHAIR: I understand why you object, but the question
I will allow. Mr O'Brien, you need to modify it slightly,
that's all.

MR O'BRIEN: Yes, your Honour.

Q. Does it trouble you now, having heard Bishop Appleby's
evidence, having come to learn that there was
a cross-examination on this confidential communication
before the material was produced to the court by you, that
you may have been misled by your clients?
A. It certainly concerns me. It concerns me that [CKA]
was very upset about it. I thought I was simply responding
to that subpoena and I replied in those terms. If there
was something that had happened before that, it certainly
concerns me that the letter possibly misled him.
I don't --

Q. Well, this Royal Commission, you see, will be dealing with submissions which suggest that what you wrote in this letter in relation to how those documents came to be with defence counsel is wrong, untrue; you understand that?
A. Yes, I understand that.

Q. And I'm suggesting to you that someone has misled you in relation to that, and I'm asking you do you have some idea as to who that might have been?

MS GERACE: I object again, your Honour. How can this witness possibly give an answer as to who it might have been given he is unable to say who had access to the document; he is unable to say whether in fact it has been leaked; he hasn't been asked whether he has been told anything that might amount to being misled. The question is unfair, does not assist, and given the way in which it is asked is unfair to the people who have been mentioned in passing.

THE CHAIR: I will allow the question, Mr O'Brien. It may not have much profit, though.

MR O'BRIEN: Yes. I will go about it a different way.

Q. You are telling this Royal Commission you have no idea who misled you; is that the case?
A. Yes, I don't know.

Q. One of the people who may have misled you was Graeme Lawrence. You understand that's a possibility?
A. I don't believe he made any statement to me in relation to this matter to respond to that letter. I'm not talking about at the time of the attendance to produce it to the court, but I certainly don't believe I had any input from Dean Lawrence at that time in relation to this letter.

Q. If, hypothetically, it were Graeme Lawrence who had misled you in relation to the first production of this particular material to the defence counsel for [CKC], would that in any way shape your view as to the nature of the man, the character of the man?
A. If that happened, it might affect my view, but I don't believe he had any input into it at that stage. I may have unwittingly written this letter believing that I knew all
the facts and that the Diocese received my response and, without further consideration, simply typed it up. I don't know.

Q. In your evidence in relation to the production of items on and pursuant to the subpoena, you mentioned a book. You said it had a black cover, perhaps, you said, spiral binding. Do you remember saying something like that?
A. Yes, it wasn't big. That's my recollection.

Q. What was it?
A. I don't know, I don't remember. I think it must have been in relation to the other subpoena, because that certainly is not covered by this book - by this schedule.

Q. Was it a Register of Services?
A. I don't know, and at that time I don't think I would have known much about registers of service. It was simply a business record as far as I was concerned.

Q. You checked the veracity of the documents to ensure that it answered the subpoena that you were dealing with; is that the case?
A. Yes.

Q. Can I ask that you be shown exhibit 2B, please. That's a confidential exhibit, your Honour. It is the Register of Services. The original copy should be shown, if it is still available.

MS SHARP: I should indicate the original is now back with the State.

MR TEMBY: That's right, and we don't have it here.

MR O'BRIEN: That's okay.

Q. Can we show the witness the photocopy of what is the cover of the Register of Services, and I will ask you if you can identify whether that was the document?
A. I don't believe it was, actually.

Q. So you are not certain, but you don't believe so?
A. No, I don't think it was.

MR O'BRIEN: Thank you for your answers. I have no
further questions.

THE CHAIR: Who else has questions? (Several hands were raised).

EXAMINATION BY MS GERACE:

MS GERACE: Q. Mr Caddies, I represent Mr Mitchell. You were asked some questions about a document being a file note of conversations between [CKA] and Mr Lawrence. Can I ask you the following questions: prior to your attendance upon Mr Lawrence to review documents to produce to the court under subpoena, had you ever seen that file note before?
A. No. I am sorry, am I speaking loudly enough?

Q. Yes. Sorry, I don't know if you can hear me either. You were asked some questions about whether - raising the possibility that that document may or may not have made its way into a manila envelope. As you give your evidence today, do you have any personal knowledge of whether or not that document was ever in a manila envelope?
A. I have no personal knowledge.

Q. Prior to its production, when it was reviewed by you and prior to the production to the court, is it accurate to say you have no direct knowledge of who had seen that document at any time?
A. No, I have no direct knowledge.

Q. Or who had prepared it or typed it?
A. No, I don't have direct knowledge.

MS GERACE: Thank you. They are my questions.

EXAMINATION BY MR J HEALY:

MR J HEALY: Q. I appear for Bishop Herft. In 1999 Bishop Herft contacted you and asked for some advice in relation to the Newcastle Diocese's duty of care to [CKU] and [CKR] when they were living at Morpeth College; do you remember that?
A. [CK]?

Q. [CKU] and [CKR]?
A. Yes, I - well, yes, at the time of completing my second statement I don't think I recalled that, but having
seen other documents, I am satisfied that that probably happened, yes.

Q. Bishop Herft told you that he wanted advice because [CKU] had been abused at Morpeth College?
A. Yes, I don't know he used that term, yes.

Q. And do you recall providing that advice?
A. I don't recall, but I believe I did.

Q. And you accept that that's the type of advice that you would provide to Bishop Herft from time to time?
A. Yes.

Q. Can you have a look at tab 51. Yes, take your time to read that document.

COMMISSIONER FITZGERALD: Can it be expanded, please.

THE WITNESS: Yes, is that the complete document or does it need to be scrolled, I'm sorry?

MR J HEALY: Q. As I understand it, that is the complete document.
A. Thank you.

Q. Having looked at that document, do you agree that that is the advice that you provided to Bishop Herft in 1999?
A. 1999? I'm not sure that the precise summary of my advice about defamation and Stuart Littlemore's opinion is probably precisely correct. I certainly think that's the gist of it, yes.

Q. Is your advice in relation to the Diocese not owing a duty of care - does that accurately record your advice to Bishop Herft?
A. I think, if I'm not - I felt I'm not necessarily speaking in a pure legal sense. To me, it was sufficiently important that it be notified to all relevant church bishops, and my view was that regardless of - if my advice wasn't really correct, we had to do it. It was a proper thing to do.

Q. Sorry, is the advice in relation to the Diocese not owing a duty a care to [CKR] your advice or not?
A. Not owing a duty of care, did you say?
Q. Yes.
A. Where is that, please?

THE CHAIR: I'm not sure I can see that.

MR J HEALY: Q. Sorry, in relation to the duty of care, do you recall which advice you ended up landing on in relation to whether a duty of care was owed or not?
A. Well, I think in the next paragraph, probably that relation to duty of care in a wider sense than the duty of care to the bishops.

Q. Can we move to a different topic? You also provided Bishop Herft with advice in relation to compliance with the New South Wales Child Protection (Prohibited Employment) Act?
A. Yes.

Q. And the New South Wales Commissioner for Children and Young People Act of 1998?
A. Yes.

Q. You provided that advice in 2002?
A. Yes.

Q. In September 2003 Bishop Herft also asked you for advice in relation to his obligations in relation to referring the allegations regarding [CKU] and [CKA] to the Ombudsman?
A. Yes.

Q. Do you recall providing that advice?
A. Yes.

Q. Your advice was that he didn't have an obligation to refer that matter to the Ombudsman?
A. Yes.

Q. But then Bishop Herft took on board your advice and then he took the step of referring the matter to the Ombudsman and notifying you that, as a matter of caution, he did that?
A. That's right.

Q. Could I just move to the incident involving Peter Rushton in 1998 --
A. Yes.
Q. -- where the pornography was located by the removalists in Peter Rushton's house. When that was discovered, Bishop Herft immediately contacted you and asked for your urgent advice in relation to that?
A. Yes, he phoned me. He phoned me.

Q. When Bishop Herft contacted you, he said that his initial response was that he wished to sack Peter Rushton in relation to the pornography that had been found at his house?
A. I don't remember that. My recollection is what do we do in relation to the criminal aspect of it, and I don't remember that. I don't believe that a sacking issue of a priest would have really been my responsibility; it would have probably gone to the Chancellor or the Deputy Chancellor. I don't doubt that Bishop Herft had that in mind, but I don't think that was the question to me.

Q. I put it to you that that was Bishop Herft's initial response and then you said, "Well, before you go down that path, we need to investigate exactly what happened"?
A. Yes.

Q. And that's the process that you were involved in in relation to determining what investigation should be carried out by the church in relation to the allegations that had been made by the Farragher removalists; is that correct?
A. Yes, it happened in a very short period of time.

Q. And your initial response, and you mentioned earlier today, was that you were 12 to 24 hours away from reporting the matter to the police?
A. That's right.

Q. Now, is that 12 to 24 hours from when the allegations initially arose?
A. Yes.

Q. But you counselled Bishop Herft to put in place a process in relation to how to investigate it; is that correct?
A. Yes, I don't quite remember what the advice was. It's 18 years ago. But, yes, I counselled that we find out more information, and then the word came back, via the Archdeacon Colvin Ford, that it wasn't child pornography;
it was adult pornography. And I think at that stage we breathed a huge sigh of relief because we were poised at that point to go to the police.

Q. And you then entered into further correspondence with Sparke Helmore in relation to the adult pornography?
A. Yes.

Q. And we have seen those letters today - the 7 December and 10 December letters - and at the end of that process you were satisfied, as the Diocese's lawyer, that the process of investigation had been completed and there was no allegations of child pornography?
A. Yes, I was quite satisfied, in my mind at that time, yes.

Q. And you advised Bishop Herft of that at that time?
A. Yes.

Q. And then you left it for Bishop Herft to resolve that matter by providing pastoral care to Peter Rushton going forward?
A. Yes.

MR J HEALY: No further questions.

<EXAMINATION BY MR GYLES:

MR GYLES: Q. My name is Gyles, I appear for Bishop Thompson. Can I ask you again, please, about the letter which is at tab 421, which was the group or gang of 15 letter to the Royal Commission, which you would be aware of.
A. Yes.

Q. You note in the first paragraph of that letter that Bishop Thompson may be assisting in giving evidence to the Royal Commission?
A. Yes.

Q. And, indeed, your expectation would have been at the time of writing that letter that he would be speaking to the Royal Commission about matters relevant to what he was looking into?
A. Yes. I understood that he had already had a preliminary discussion and there was more to come, and I had understood it was very urgent that that letter - if
we wanted to send a letter - should go off at that time.

Q. You must have known that the Royal Commission would be aware independently of this letter of two things: first, the very public announcement concerning the historical abuse of two priests which had been disclosed in the Synod and reported in the Encounter publication?
A. They hadn't been at that time - published in the Encounter - I don't think, but --

Q. What I'm suggesting to you is that you must have known that the Royal Commission would become aware of that matter independently of your letter?
A. In all probability, but I don't know that it had --

Q. Could I suggest to you that you must have been aware that the Royal Commission would be aware independently of your letter of the disclosure of Bishop Thompson's own abuse?
A. Yes, I would anticipate that he would have informed them of that, yes.

Q. And you knew that the Royal Commission was well placed to investigate those matters, if relevant to its work?
A. Yes.

Q. In respect of the second page of that letter, in subparagraph (c), you express grave concerns about the disclosure of the historical abuse by the two priests.
A. Yes.

Q. And your question is:

What was Bishop Thompson's knowledge in the past of such matters of abuse and what actions did he take, as a priest ... to possibly protect children in this Diocese?

A. Yes.

Q. You knew, didn't you, at the time you wrote this letter, that Bishop Thompson was not ordained in Newcastle - didn't you?
A. No.

Q. You knew that he was never a priest in this Diocese, didn't you?
A. No.

Q. You knew that his first role in this Diocese was when he became Bishop in 2014?
A. Well, that seems to - yes, I accept that is the case, but I didn't know that then, I don't think.

Q. So are you telling the Royal Commission that at the time you wrote this letter, in April 2016, that you believed that Bishop Thompson had had a role in this Diocese prior to becoming Bishop; is that correct?
A. I thought he did. I thought he had been to St John's College, but I'm not sure that that's right now.

Q. Can I suggest to you that the only time that Bishop Thompson spent in Newcastle was when he was in university in the mid 1970s?
A. Well, I didn't know that.

Q. Can I suggest to you that there was no reasonable basis whatsoever to conclude that Bishop Thompson may have known anything of these allegations?
A. Well, again, that was something I said in my first statement - he may or may not know, and all I was wanting to do, and the others, was to draw it to the attention. If it was irrelevant, then it was irrelevant, it shouldn't have been pursued.

Q. Mr Caddies, you knew, can I suggest to you, that Bishop Thompson was not a priest in this Diocese when the alleged abuse occurred?
A. I didn't know when that abuse occurred.

Q. Can I suggest to you that you didn't know that he knew - you had no knowledge that he knew these victims, did you?
A. That's quite so. I think he knew the victims. Are you referring to him seeing --

Q. The victims of that abuse?
A. They were the priests.

Q. Right. But you didn't know that he knew them, did you?
A. Well, I'm sure he knew them. I don't know whether he knew them when they were abused, but --
Q. How could you possibly say that he knew them at the
time that he was in Newcastle when he was a university
student?
A. No, I didn't say that.

Q. You see, these victims hadn't told anyone, had they,
about these allegations, to your knowledge, until last
year?
A. Well, I didn't know all of that.

Q. Can I suggest to you, Mr Caddies, that it is grossly
unfair, if not defamatory, to have tried to link
Bishop Thompson with some failure to report this abuse,
which was not disclosed by these individuals until last
year, from the time that he was in the Diocese as
a university student in the 1970s?
A. Well, if that's correct, it is unfair, yes.

Q. And can I suggest to you that the only possible
motivation for you to have done so was to seek to - with
the group of 15 who signed the letter - try to run him out
of this Diocese because you didn't like what he was doing?
A. No. I don't believe it's as simple as that.

Q. In your statement of 21 July 2016, which is at exhibit
42-100, paragraph 6(c)(iv), you say that you told
Bishop Farran that a large part of the congregation at the
cathedral would have great difficulty in accepting the
allegations or findings concerning Graeme Lawrence, didn't
you?
A. Yes. I believe I said that in my role or capacity as
a warden of the cathedral.

Q. You said it in your statement to this Commission,
didn't you?
A. Yes, I repeated what - in the statement, what I said
to Bishop Farran, right.

Q. And when you referred to "a large part of the
congregation", can we take it that the group of 15 who
signed the letters to the Royal Commission and to the
Archbishops of Sydney and Melbourne were part of that
group?
A. Yes, but it was a much bigger group than that.

Q. And you knew, didn't you, in 2011, that Bishop Farran
was considering whether to accept the recommendations of
the Professional Standards Board that Graeme Lawrence be
defrocked?
A. Yes.

Q. Can I suggest to you it is clear enough that what you
were doing by saying that was to seek to bring pressure to
bear on Bishop Farran to deal more favourably with
Graeme Lawrence than the Professional Standards Board had
recommended?
A. I think my position is as stated in my letter of
26 May 2012, and that's really how I viewed the situation.
I was asking him to exercise his judgment in relation to
the determination and to come to a view. But I also was
suggesting there may be a way to look at further
consideration of those matters - those two matters.

Q. What I'm putting to you is more than that - that what
you were seeking to do was to bring pressure to bear on
Bishop Farran to deal more favourably with Graeme Lawrence
than the Professional Standards Board had recommended?
A. That may have been the consequence of my submission,
but my intention was really simply to see that he was given
a fair deal, and by that --

Q. And can I --
A. Sorry.

Q. And can I suggest to you that your signal by that
correspondence with Bishop Farran was that if he played ball
and followed the wishes of that group, then things would be
made easier for him going forward in his running of the
Diocese?
A. No, that's absolutely wrong.

Q. And, to the contrary; if he didn't play ball, things
would be made more difficult --
A. No.

Q. -- for him by that group of individuals?
A. No, absolutely untrue.

Q. Can I then please, Mr Caddies, take you to tab 420, to
the letter to the Metropolitan, which my learned friend
Ms Sharp took you to this morning. In October 2015 the
Newcastle Herald reported that Bishop Thompson had been
groomed and sexually abused by Bishop Shevill and another
senior cleric when a 19-year-old, aspiring to a career in
the church - you know that, don't you?
A. Yes.

Q. Among the realms of possibility, when you heard that, can we take it, was that he might have been telling the truth about that?
A. Yes.

Q. Up until reading that article, you had no reason to believe, did you, that your new Bishop was a dishonest person?
A. I don't believe he is a dishonest person. I don't believe he is a dishonest person at all - then or now.

Q. If he was telling the truth in making those disclosures, you knew, didn't you, that it was a very big step for him to come forward and make that abuse public?
A. Yes, I understand that.

Q. And you understand that people coming forward in those circumstances and subjecting themselves to shame and embarrassment are taking a big risk, aren't they?
A. Yes, it is a risk.

Q. And it is a courageous thing to do?
A. It is a courageous thing and it is a leadership thing.

Q. In your letter to the Metropolitan of 13 April 2016, you say that you are gravely concerned about the besmirching of the good name of Bishop Shevill?
A. Yes.

Q. You have read Bishop Thompson's statement, haven't you?
A. Yes, of June 2016.

Q. Yes, in this Royal Commission?
A. Yes.

Q. You would agree with this, wouldn't you, that Bishop Shevill would, to your mind, have been besmirching his own good name, wouldn't he, by taking a young 19-year-old to an R-rated movie, including homosexual sex?
A. I had forgotten that detail about it.

Q. Well, it would be completely inappropriate, wouldn't it?
A. Yes.

Q. You also say in the letter that you believe that Bishop Shevill's behaviour may have been misinterpreted?
A. Well, yes, at the time I didn't know what the allegation was.

Q. Well, on what possible basis, Mr Caddies, could you, as a lawyer of 45 years experience, have made any comment whatsoever upon what Bishop Thompson had said that Bishop Shevill had done to him?
A. I'm sorry, would you repeat that, please?

Q. What possible comment could you make, as a lawyer of 45 years experience, on what Bishop Thompson had said that Bishop Shevill had done to him? How could you possibly comment on that?
A. I don't know what he said. I mean, things are capable of being misinterpreted. It was obviously much more significant than what I interpreted it as being about remarks he made.

THE CHAIR: Q. That's not an answer to the question. Can you try again?

MR GYLES: Q. What possible comment could you have made, as a lawyer of 45 years experience, upon what Bishop Thompson said that Bishop Shevill had done to him? A. Well, it is really a question of fact. I was merely raising a question, and the others were raising a question, for consideration.

Q. Mr Caddies, can I suggest to you that you, acting reasonably and in good faith, could have raised no question at all in respect of that by reason of the fact that you knew nothing about what had happened yourself?
A. Well, I had hoped, in a sense, that it had - something may have been misinterpreted, but --

Q. Have you read Bishop Thompson's statement?
A. Yes, but I didn't know about that at the time of the --

Q. Do you think that groping someone's genitals might have been something that was capable of misinterpretation?
A. No, although I don't think that was quite the way, with Bishop Shevill, that's how it happened, according to
Q. The other point you are making in this letter is that Bishop Thompson at the time was not a child.
A. Yes.

Q. And was therefore, by definition, a consenting adult.
A. Yes.

Q. So you were comfortable, were you, with this state of affairs - that a senior priest plies an impressionable 19-year-old with alcohol, tries to force himself on him, offering him smooth passage into the church - as involving some sort of consent on the part of the 19-year-old?
A. Was that what Bishop Shevill said or was that what the other person said?

Q. Well, you tell me. Do you regard that as consent - consensual participation by the 19-year-old, on those facts?
A. It may not have been, no, I don't - I don't recall, unfortunately, the full detail of that, in the statement, that is.

Q. Mr Caddies, the irony of this letter is that you are anxious to protect the good name of Bishop Shevill, aren't you?
A. Well, until recently I --

Q. You say that you are gravely concerned about the good name of Bishop Shevill?
A. He had a good reputation in this Diocese.

Q. But what you have done is, in writing this letter in the terms in which you have written it, you have had no regard, whatsoever, have you, for the good name of Bishop Thompson?
A. I think it was not intended that it would ever be circulated so widely as it has been. It was - and I said this in my statement when we were asked --

THE CHAIR: Q. Mr Caddies, I'm sorry, again, that's not an answer to the question.

MR GYLES: Q. You had no regard, in writing this letter,
to the good name of Bishop Thompson, did you?
A. I had some regard, yes.

Q. Can I suggest to you that you had no basis whatsoever to doubt what Bishop Thompson had said about his own experience of abuse?
A. I certainly didn't know at the time of writing what that - what the abuse was. I certainly wasn't doubting that events had happened. I may have - the question about interpretation of those events or the statements was something that was mentioned in that letter.

Q. Mr Caddies, doubting what he said was the very purpose of this letter, can I suggest to you?
A. I was asking for - and others were asking for - questions to be raised and considered by the Metropolitan.

Q. In a way that offended the most basic notions of fairness and decency, can I suggest to you?
A. I don't think so.

Q. You also criticised him for going on the ABC and appealing for victims of child sexual abuse to come forward, didn't you?
A. I don't object to appealing to victims to come forward.

Q. You would agree, wouldn't you, that given the mixed messages that may have gone out to the community prior to 2015 as to the reception that those individuals might receive, an unambiguous statement of support was important and necessary, wasn't it?
A. It was important and desirable that such statements be made. I'm not entirely happy about the media but, yes, I agree with that.

Q. That wasn't intended to be for people who were going to come forward and make false claims?
A. Of course not.

Q. That was an entreatment and a welcoming of claims by people who had been abused - by those poor souls who had been abused; that's right, isn't it?
A. Well, I think it was in respect to all people who came forward, that they would be believed.

Q. But, Mr Caddies, it is pretty plain, isn't it, that
what Bishop Thompson was intending to do was to communicate
to people who, as of last year, had been abused but had not
been able to come forward, to bring themselves to come
forward?
A. Well, yes, I agree - accept that, yes.

Q. He was attempting to encourage those people so they
could receive pastoral care to try to deal with those
matters that they had been subjected to?
A. Yes.

Q. Would you accept that it is just a little
mean-spirited for you to have criticised him for doing that
in the circumstances?
A. I don't criticise those aspects at all.

Q. Can I suggest to you, Mr Caddies, that your conduct,
in writing these letters, and the conduct of the group of
15 who had participated in that, particularly as to, for
example, providing natural justice to alleged perpetrators,
is reflective of an attitude which is pro-perpetrator - do
you agree with that?
A. By me and those others?

Q. Yes.
A. No, I don't accept that.

Q. I suggest to you that it is also an attitude which
pays little regard to the interests of the survivors?
A. I believe that one needs to be objective about these
matters and one should give - where there's doubt, give
benefit to the survivor, by all means.

Q. Well, can I suggest to you, that's a very easy thing
to say when you are in the witness box, Mr Caddies, but the
proof of the pudding is in the eating, and when we see your
letters and your criticisms made of Bishop Thompson, that
is not borne out?
A. Well, I think if you were to consider the 1,200-odd
decisions I made in my role as a workers compensation
arbitrator, I always gave - where there was a doubt and
there was evidence, I tended to favour the person who was
making the complaint. I don't accept that I am taking
a pro-respondent or pro-defendant view of that.

Q. But you are not making those decisions with 14 other
people, as you did in this case; that's right, isn't it?
A. I only wanted a fair decision. We were asking for advice, what to do, and our concerns with the Metropolitan were far broader than simply to do with these matters.

Q. Since at least the middle of last year, Bishop Thompson has taken a strong public stance, hasn't he, which is sympathetic to the survivors of child sexual abuse?
A. Of course he has, and I don't disapprove of that at all.

Q. This attitude, can I suggest to you, has caused certain persons within the Diocese who disagree with his public position to seek to undermine him and what he is doing both in public and in private?
A. I don't think that that's the basis of - if you are referring to the people who wrote that letter, I don't think - I think that that's - in respect of those matters, I said in my own statement that I didn't think there was sufficient to cause him problems as Bishop.

Q. Can I move to another topic. You have criticised Bishop Thompson for not attending services at the cathedral?
A. Yes.

Q. Can I suggest to you that he has attended the cathedral over the last year a number of times, for festival events, for example, and where persons have been commissioned or other similar services of that nature?
A. There would not be many of those, yes.

Q. So you agree with that?
A. No - well, I don't doubt that he attended those. There would not be many of them.

Q. Can I suggest to you that one of the reasons for him not attending a regular Sunday morning service at the cathedral is the way that he has been treated by the congregation; do you agree with that?
A. No, I don't.

Q. Can I suggest to you that he has been discriminated against, he has been ridiculed, and he has been ignored by the congregation when he has attended mass or services at the cathedral?
A. No, I don't believe that at all.

Q. And can I suggest to you - did you attend the festival with the Governor?
A. Yes, I was there that night.

Q. Were you there when one of the congregation turned his back on Bishop Thompson after he had been introduced to the Governor?
A. No, I didn't - I was not aware of that.

Q. Will you agree with me it has hardly been a welcoming flock there, has it, Mr Caddies?
A. I think it has been a very welcoming flock, actually. People were wanting him to do things, to become involved. He received invitations to dinner and so on. Frequently they were cancelled. The people were very keen to incorporate him into the cathedral life, and still are. I have no doubt about that. It is a very friendly congregation, I can say that myself. When my first marriage broke down, I found it an incredibly supportive congregation.

Q. Perhaps not so supportive of Bishop Thompson at the moment, Mr Caddies?
A. Unfortunately - and I don't wish to be critical particularly, but when - it is the normal practice when the procession of the clergy leave the cathedral for the members of clergy to stay at the door and shake hands with people as they leave. Unfortunately, as soon as that happens, Bishop Thompson disappears. It's most unfortunate, because there are many people who want to be friendly and to welcome him, and that's still the position, and of that I have no doubt.

Q. You have also been critical or you have made comment in one of your statements about him having taken time off for illness?
A. Yes.

Q. You are in no position, are you, at all, Mr Caddies, to have any idea about whether or not Bishop Thompson has taken time off over the last year or two for illness?
A. Only what I hear on the - in the Diocese, yes.

Q. So you are prepared to take that as a fact and put it in your statement, are you?
A. Mainly because I believe it's true.

Q. Although you have no personal knowledge of it; is that right?
A. No, not in the direct sense, no.

Q. Can I suggest to you that the only time that Bishop Thompson has had off for illness over the last year or so has been in connection with some medical procedures prior to Christmas last year, and that he has otherwise been fit for work and has been at work, apart from when he has been on holidays?
A. That would surprise me greatly.

Q. Well, you are not really one to give him the benefit of the doubt in any of these issues, are you, Mr Caddies?
A. I know - well, Bishop Thompson apparently will have a nasty encounter and then go off work for a couple of days after some experience at work. This is apparently a regular pattern. It's - it is not uncommon comments that are being circulated about those sort of things. He has had a great deal of time off work, I believe.

Q. This is all circulated among the gossip at the cathedral, is it, about --
A. No, I don't think so at all. The clergy speak about it quite a deal.

Q. You say, don't you, in your statement that you regard Bishop Thompson as a damaged soul?
A. Yes, I do.

Q. Can I suggest to you that is indicative of two things: first of all, it is indicative of a lack of empathy on the part of you and your group to the survivors of sexual abuse?
A. No, I don't think that's fair at all.

Q. Can I suggest to you that it is also symptomatic of a real and ongoing prejudice against him by your group in the work that he is seeking to do in the Diocese?
A. No, I don't accept that in relation to child abuse at all.

MR GYLES: I have no further questions, thank you, your Honour and Commissioners.
THE CHAIR: Is there anyone else?

<EXAMINATION BY MR TAYLOR:

MR TAYLOR: Q. I appear for you, Mr Caddies. Mr Caddies, you recollect that there was discussion about the letter of 14 June 2001, which was a letter to the Episcopal Standards Committee in relation to Bishop Farran. You said there were other issues. What were the other issues that you were concerned about?

A. There are issues that are listed in that letter, but also the matters that I outlined, I think, in my fourth statement.

Q. And those being?

A. Well, there's one in relation to the word "maladministration" - I'm not suggesting in any improper way, it is probably a bad word - in particular, the attempt to create a theological school. And that's referred to in the letter of 2011, and that has produced at very great cost about 14 graduates over the last five years, and it's been a disaster financially for the Diocese.

Q. Is this your perspective or somebody else's?

A. Well, I think anyone that knows about it is very unhappy about it. I don't - anyone that is involved in the church who knows about it is unhappy about it. Our trainee priests are being referred now to Melbourne University.

Q. When I say these are your views or somebody else's, there were other people that signed that correspondence?

A. Yes.

Q. So were these your views or other people's?

A. I think they were collective - the views of all those people, I'm sure, in relation to that matter.

Q. And in relation to Bishop Thompson, you said earlier to the Commissioner that some of these issues that were mentioned in that letter to the Commission were a number of other concerns - what were those other concerns?

A. I would have to refer to the letter, but there is a number of points.

Q. Do you remember what they are?

THE CHAIR: Well, does the letter speak for itself?
MR TAYLOR: Yes, Commissioner, it does.

Q. Mr Caddies, with respect to the letters that you had signed with the group to the Episcopal Standards or to Dr Glenn Davies, why did your group send those documents? Why did you think it appropriate to either approach this Commission or Episcopal Standards or otherwise?

A. We were - we knew that Bishop Thompson wouldn't speak with us. We endeavoured to talk to him about the sale of Bishopscourt. He refused to speak to a number of people independently of this group. He refused to speak to me. He alleged that we had gone to the press about it, which wasn't true. It did get into the press, but it wasn't via the people that were concerned about it. And those concerns arose, in my view, out of the fact that that had been a gift on trust by a lady in 1917 to the Diocese for the bishops as a residence for life - forever. That was the intent. And if it had been sold for the - if it was being sold for the benefit of victims and survivors, no-one could have complained, but that was not the reason it was being sold, and that's quite clear from the management of the See ordinance of 2013 which sets out what that money was to be used for. It had nothing to do with that purpose.

Q. Was there any other avenue which you could have taken or your group could have taken with respect to these complaints?

A. No, there was no other avenue at all.

Q. What do you mean by that?

A. There was no way that we could go to Bishop Thompson to discuss these things. He had refused to talk about other matters in the past - not only with me and other people, but also with various priests. One instance was of a priest who - the most senior priest of the Diocese who wanted to talk about the sharing of a church with another denomination and in relation to establishing a chaplain to be shared with the Manning Grammar School, and with a nursing - with a church home, there was to be funding for that. He tried for eight months to see him and couldn't speak to him.

THE CHAIR: Q. I'm sorry, I'm not sure I understand. Are you saying that Bishopscourt was sold in breach of trust?
A. I'm sorry, your Honour?

Q. Are you saying that Bishopscourt was sold in breach of trust?
A. No, it wasn't, legally. They varied the trust by virtue of an Act of Parliament. It was not a cy-pres doctrine change but it was a complete change of use.

Q. So I assume a capital sum from the sale contributed to the capital position of the Diocese; is that right?
A. No, it was to be used for - the sale of the Bishopscourt and the balance of the trust moneys from the previous sale of part of the property were to be applied, firstly, to buy another home for the Bishop and, secondly, to provide a stipend for the Bishop and ancillary expenses and also for the Assistant Bishop and ancillary expenses. That had never happened before. They were the purposes for that money.

Q. Well, obviously the Bishop needed a home?
A. Obviously, yes.

Q. And needed a stipend?
A. Yes.

Q. So did the Assistant Bishop?
A. Yes, but it had never been paid out of Bishopscourt before.

Q. Well, then, what's the complaint?
A. I think the - well, my complaint is that it was most unfortunate that the donor had intended it for a particular purpose, which was greatly varied. And it was a property that was recognised significantly in Newcastle by the people of the church. The Bishop regularly simply walked along from there to the cathedral, as did his spouse, and there was a very close connection with the two properties.

Q. It is a matter of tradition, then, is it?
A. Probably, your Honour, and custom, yes.

Q. Now, as I understand it, the Anglican Church has sold a number of bishops' or archbishops' residences within Australia in recent years; is that right?
A. That's right, your Honour.

Q. Because most of them were considered to be excessive
to need and a poor use of capital; is that correct?
A. Yes, but this property is nothing to be compared with, say, Bishopscourt in Sydney.

Q. No, but, nevertheless, that's the position, isn't it?
A. Well, that's often the reason, yes.

Q. What happened here, as I understand it, is that you have a residence and the funding of a Bishop and an Archbishop from the sale of Bishopscourt; is that right?
A. Yes, although it was advertised as being for the episcopal ministry of the Diocese.

Q. And as I also understand it, your Diocese is rather strapped for money, is it not?
A. I believe so. I don't know in detail about that at the moment.

MR TAYLOR: Q. Mr Caddies, with respect to the abuse issues, the correct avenue was through - at least within the Diocese was with respect to the Professional Standards Board; is that correct?
A. Yes, after 2006, I think.

Q. That is within the Diocese. Outside of the Diocese itself, what is the correct avenue?
A. Well, there is no right of appeal under the ordinance. I don't know whether that has been changed, but there was no right of appeal from the determination of the board.

Q. If we separate the abuse issues with respect to internal administration or otherwise, what other avenue is there for parishioners with respect to internal concerns within the Diocese?
A. There is no other avenue.

Q. Would that explain why correspondence has gone out to various parties and signed by the group?
A. Yes.

Q. Does not the Episcopal Standards Board provide the correct avenue for such administration issues, within a Diocese?
A. I don't know about that. The Professional Standards Board has no jurisdiction over our Bishop. That's a separate jurisdiction.
Q. So that if you have a concern about the Bishop, where do you go?
A. I don’t know whether it’s still the case, but there was a 12-month limitation on complaints, and you would go to the Episcopal Standards Board. That’s my understanding.

Q. So the Episcopal Standards Board is the correct avenue?
A. Unless it relates to a matter of incapacity.

Q. And who is to raise the issue with respect to the incapacity?
A. The board - the Episcopal Standards Board can refer it to the Metropolitan of a province, which is New South Wales in this case, and then it would come under the incapacity ordinance. But I think three Synod persons or more could separately refer an incapacity issue.

Q. So when you raised your letter of 13 April to Dr Glenn Davies, why did you write to him specifically as opposed to the Episcopal Standards Board, with respect to your concerns about the Bishop?
A. Well, the previous letter of 2011 was in many ways unsatisfactory to us, and particularly that one of the points taken was that it was a 12-month limitation, you were out of time; secondly, it was being determined by the Supreme Court in relation to Sturt and Lawrence; and there was another reason, which is in writing, that rejected it. We found it seemed to be a very difficult, unsatisfactory process, because it was also one that comprised bishops of - throughout Australia on that board.

Q. So am I correct in saying that the correspondence that you had sent, be it to Dr Glenn Davies or to this Commission, with respect to the issues raised about various bishops, was simply because you had no other avenue to raise these issues that you were comfortable with?
A. We saw it that way.

MR TAYLOR: No further questions.

THE CHAIR: Ms Sharp?

MS SHARP: Nothing arising, your Honour.

THE CHAIR: Thank you, Mr Caddies. That concludes your evidence. You are excused.
THE WITNESS: Thank you, your Honour.

<THE WITNESS WITHDREW

MS SHARP: The next witness is Bishop Brian Farran

<BRIAN GEORGE FARRAN, sworn: [3.15pm]

<EXAMINATION BY MS SHARP:

MS SHARP: Q. Bishop, could you state your full name for the Commission?
A. Yes, Brian George Farran.

Q. Your address is known to those assisting the Royal Commission?
A. It is, indeed.

Q. You prepared a statement dated 18 July 2016 for the Royal Commission?
A. I did.

Q. Are the contents of that statement true and correct?
A. Yes, I believe so.

MS SHARP: I tender that statement.

EXHIBIT #42-107 STATEMENT OF BRIAN GEORGE FARRAN DATED 18/7/2016

MS SHARP: Q. Did you prepare a supplementary stated dated 22 August 2016?
A. I did.

Q. Are the contents of that statement true and correct?
A. Yes, I believe so.

EXHIBIT #42-108 STATEMENT OF BRIAN GEORGE FARRAN DATED 22/8/2016

MS SHARP: Q. You were the bishop of Newcastle from 24 June 2005 to 15 December 2012?
A. I was indeed.

Q. Prior to that you had some involvement with the General Synod of the Anglican Church in that you were on
the standing committee from February 1998 to July 2005?
A. Yes.

Q. And once you became a bishop, you automatically became a member of the General Synod?
A. That's indeed correct, yes.

Q. While you were on the standing committee of the General Synod, did you have some involvement in the development of the national professional standards scheme?
A. Yes, that was work that was undertaken by the standing committee, from reference from the General Synod meetings, yes.

Q. What was your involvement in that work?
A. Just as a member of the committee dealing with the progression of it and listening to the lawyers detail what was going to be in the ordinance.

Q. And did you support the Model Ordinance?
A. Absolutely, yes.

Q. And, to be clear, that was the Professional Standards Ordinance of 2004?
A. That's right.

Q. That Professional Standards Ordinance was replicated to large measure in the Diocese of Newcastle in 2005?
A. That's right. There was a working committee that Bishop Herft had established and it brought the ordinance with some minor adjustments to the October Synod of 2005.

Q. And part of what that Professional Standards Ordinance did in the Diocese of Newcastle was introduce a Professional Standards Committee and a Professional Standards Board?
A. Yes.

Q. And it's fair to say that to a large measure the Professional Standards Board supplanted the old model of the Diocesan tribunal?
A. Absolutely, yes.

Q. Can I ask you some questions now about the early part of your career, Bishop Farran?
A. Yes.
Q. You were a student at Morpeth, St John's College at Morpeth?
A. I was.

Q. What years did you study there?
A. From 1962 to 1964.

Q. I am going to come back later in our examination to ask you some further questions about Morpeth, but let me move on from there for the moment. It's right that you were ordained as a deacon on 30 November 1967 at St Alban's Church in Griffith?
A. I was.

Q. Griffith is in the Diocese of the Riverina?
A. It is.

Q. And in December - incidentally, what is a deacon compared with a priest?
A. Well, a deacon - there are three orders of ministry in the Anglican Church, deacon, priest and bishop. A deacon, really, in a way it is an order that has sort of lost its distinctiveness in one sense, because it almost seemed to be an apprentice priest, you know, first-year trainee, as it were. We've been trying over the years to restore it, but basically a deacon is someone who is in Holy Orders, who can, for example, help in the administration of the Holy Communion, can preach, if licensed by the Bishop, can read the gospel in the Eucharist and obviously do some pastoral work under supervision.

Q. In December 1968 you were ordained as a priest --
A. Yes.

Q. -- in St Thomas's in Narrandera in Griffith?
A. In, Narrandera, yes.

Q. In Griffith. And you were shortly thereafter appointed as an assistant curate in the parish of Griffith?
A. That's right.

Q. Again, what was the name of the church?
A. St Albans Church in Griffith.

Q. And again, that's in the Diocese of the Riverina?
A. Yes, that's right, yes.
Q. At the time you were appointed the assistant curate, Graeme Lawrence was the senior curate?
A. He was, that's right.

Q. But it's right that you had already met him at Morpeth College?
A. Yes. He came a year later and I then - after I left in 1964 - I was the youngest student in the college. I then went to the Australian National University and took an Arts degree. So really after 1964 I didn't really have very much contact at all with the Diocese, until I was ordained at the end of 1967, and then I spent that next year, '68, working in the parish of St Phillip's Canberra, which was the university parish.

Q. So in the period 1963 and 1964, both you and Graeme Lawrence attended at Morpeth?
A. Yes, we did, yes.

Q. Were you friends with Graeme Lawrence during that period?
A. No, not particularly. It was a very large college, actually, about 72 residential students, and highly regimented in a way. It was based on a kind of monastic model and a bit of an Oxbridge tinge to it. So life was very structured, and I went in a group that played a bit of sport and also socialised with nurses from Maitland hospital, so I kind of was in a different grouping of people to what Graeme was.

Q. If I can return now to the time you were at St Albans as the assistant curate?
A. Yes.

Q. At that time, Graeme Lawrence was the senior curate?
A. Mmm-hmm.

Q. Did he have a position of supervision with respect to you?
A. Oh, no, no. The rector at the time was an absolute tyrant, and, you know, it's very hard - in one sense, you know, we're almost in cross-cultural stuff here - to realise what it was like in the church in the 1960s. Riverina was a very poor Diocese. It was fairly isolated from the rest of the Australian church. He had - the rector there had been there for about 35 years, I think. The house that we lived in was a small cottage in the...
grounds of the parish and the telephone was an extension from the rectory, so he knew every telephone call that came through. The keys to the cars were kept over in the rectory, so if you ever wanted to use a car, you had to go and knock on the door and get a key, and things like that. Yes, he didn't have any supervision; we were just sort of suffering together, really.

Q. This so-called tyrant to whom you referred was Archdeacon Twigg?
A. Exactly right.

Q. So is it right that you lived with Graeme Lawrence in a cottage and Archdeacon Twigg also lived there?
A. No, no, I shared a house with Graeme Lawrence, but Archdeacon Twigg was married and he lived in the house which was diagonally opposite.

Q. For how long did you share the house with Graeme Lawrence?
A. Just a year.

Q. Did anyone else share the house with you?
A. At that time?

Q. Yes.
A. In that year? No, no, there were only two bedrooms.

Q. May we take it that given you lived with Graeme Lawrence you came to know him reasonably well during that year?
A. Yes, yes.

Q. And may we take it that by the end of that year you had developed a friendship with him?
A. Well, we were colleagues and we were friendly colleagues. I'm not going to decry that I've known him for a long time. Probably we had a better friendship, in one sense, when I came to Newcastle, because, you know, we could - we would sort of socialise there. But I didn't socialise with Graeme when I was - as a curate. As I said in my statement, I was able to form a really good friendship with a family in the parish and sort of sought refuge there, really.

Q. It's right that Graeme Lawrence stayed in the Diocese of the Riverina until around 1984?
A. That's right.

Q. And you moved on a little earlier than that; you were only in the Diocese of the Riverina until 1972?
A. That's right - no, no, until the end of - October '75, we moved to Rockhampton.

Q. So you remained, I think - let me get this right - you remained in the parish of Griffith until 1972?
A. Yes, until August '72, that's right. And then I'd married and my wife was expecting our first child, and we moved - oh, sorry, I think Elizabeth had been born then, yes, that's right. And then we moved as a family to Lake Cargeligo.

Q. At the time that you lived with Graeme Lawrence were you aware that he was a homosexual?
A. Oh, yes.

Q. Was that behaviour that had to be kept reasonably secret at that time or was that something he was open about?
A. I think he's always been open about it, actually, yes.

Q. At the time you were in the parish of Griffith, did you come to know Duncan Andrews?
A. No, no.

Q. I beg your pardon, Andrew Duncan?
A. No, no, I had nothing --

Q. Did you come to know Bruce Hoare?
A. Not in a - look, I might have met him, because he might have been a student training at St John's at that period, and he might have come down to the Diocese or something, but I honestly can't remember meeting him then, no.

Q. What about Graeme Sturt - did you know him whilst in the Diocese of Riverina?
A. No, I think he appeared on the scene after I had left the Diocese, I think.

Q. So Dean Lawrence, or Graeme Lawrence, started as dean at the cathedral in Newcastle in 1984; correct?
Q. And he remained in that position until about 2008?
A. No, he remained in that position until just the
beginning of January 2009, because he was given a year's
extension.

Q. And you came over to the Diocese in 2005?
A. Yes, in June 2005.

Q. And once you came over to the Diocese, is it fair to
say that you had a friendship with Graeme Lawrence?
A. Well, they were - I mean, he and Greg were very kind
and hospitable. When we arrived - Newcastle airport was
just a shed, actually, and Greg came out to collect Robyn
and me, and the then business manager, who had just been in
the Diocese position for six weeks, came - I remember he
came with a bunch of flowers, and we - Robyn and I stayed
in the deanery for that first week whilst the house was
unpacked at Bishopscourt. Then we had a week's holiday and
I went up to a friend of mine, John Hannaford, and stayed
in his B&B, and then we came back and on that Friday night,
24 June, I was enthroned as the Bishop.

Q. And, in fact, it was Graeme Lawrence who nominated you
for election as Bishop of Newcastle?
A. Yes, he did, yes, and he was supported by - I think
Steve Pullen was the seconder.

Q. And, just to clarify, when you refer to "Greg", that's
Greg Goyette?
A. Yes, sorry, Greg Goyette, yes.

Q. And that is Graeme Lawrence's partner?
A. That's right, yes.

Q. So it's fair to say that during your time, at least in
your early time as the Bishop of Newcastle, you were firm
friends with Graeme Lawrence and his partner?
A. We were - yes, we were friends, and we had them up to
dinner at Bishopscourt and they had us occasionally to
meals at the deanery. We met some pretty interesting
people at the deanery, they were very hospitable people,
and really, as a dean, he did a lot of things that a dean
should do in terms of connecting with the community and so
on. So, for example, I met the police superintendent
there; the head of the paper - that kind of stuff.
Q. Do you agree with the proposition that in the Diocese, and in Newcastle more generally, Graeme Lawrence was a very influential man?

A. Oh, absolutely. I mean, for somebody who was an amateur historian for the Diocese, who was the senior canon at the cathedral, when they had their farewell, the Cathedral Chapter - that's the composing of the canons - he said that Graeme had been the most influential priest in the Diocese of Newcastle for over 25 years.

Q. Given your opportunity of working with him for many years in Newcastle, socialising with him and the like, are you able to account for why he was so influential?

A. Well, I worked with him for three years, actually, in Newcastle. Well, he is a very charismatic person, has a very strong personality, he's tall - and I guess all of these things kind of go into a leadership profile. Very articulate, has very good verbal fluency. Strong - strong willed. Able to withstand - stare down people. I mean, for example, as I said, he was open about his homosexuality. He would stare down people about that. So, yes, he was quite a powerful person.

Q. Is it correct that he has - I will do this in two parts. During the time that he was the Dean of Newcastle, he had very strong backing from people within the Cathedral Parish?

A. Oh, absolutely. I mean, I think, if I had a criticism of Graeme - I mean, I have a very profound criticism now, of course, but of him before that - I think he made people dependent on him. I was always surprised at how little serious theological education was going on in the Cathedral Parish. In fact, I formed the view that in terms of the Diocese, the Cathedral Parish would have been one of the most theologically inarticulate parishes around.

Q. What do you mean when you say he made people dependent on him?

A. Well, I can understand when Robert Caddies was speaking earlier on about the depth of emotional attachment that Robert has to Graeme Lawrence because of the way Graeme cared for his dying mother - that was very much the pattern. He would - you know, he was available 24/7, which made it very difficult for his assistant clergy, who sometimes were married, and he, in one sense, expected them to be equally as available. So in that sense of availability and just, I guess, the kind of reinforcement -
for example, I can remember standing at the cathedral west
door at Easter or Christmas and it would take almost
three-quarters of an hour to get rid of the congregation
out of the door because of the way he would speak to
everybody and - you know. So there was that kind of very
deep emotional attachment.

Q. In your first statement at paragraph 37 - and I don't
need to show it to you --
A. Okay.

Q. -- you refer to the vehemence of the Lawrence
supporters?
A. Yes.

Q. What do you mean by that?
A. Well, they were out to get me.

Q. That's just a reflection upon your personal
experience?
A. Yes.

Q. Is it right that you perceived that they were out to
get you once the Professional Standards process ran its
course?
A. Yes - well, not just when it ran its course, when it
started, I think. I mean, it started - it was a very
protracted experience. It started in early October 2009,
when the complaint from Wangaratta came, and I had to
withdraw his permission to officiate.

Q. Bishop Farran, I will ask you in more detail about
that momentarily.
A. Yes, sure.

Q. I'm just trying to understand your observation of the
vehemence of his supporters?
A. Well, I mean, we were going - Robyn and I were going
on holiday in February one year, after that had all
happened - it must have been 2010, I guess - and I got this
anonymous text on my phone saying, "Have a great holiday.
Come back and resign." And there was this sense - I mean,
the group of people who approached the Primate, that was
when I was hosting the national Bishops Conference in
Newcastle, and they went out of their way, in
that February, with stories to the Newcastle Herald, to
discredit me as much as they could and to create
embarrassment for me amongst all my colleagues. But
I always went to the cathedral. I wasn't going to let them
beat me. And they were, in a sense, like - you know how
Margaret Atwood talks about smiling assassins? I thought
I would face them like that.

Q. Were you intimidated by Graeme Lawrence?
A. No. In fact, I must say, with due respect to him, as
the Bishop he had a very high view of the episcopate, and
he was very - he really respected me as the Bishop and did
nothing in any way to try and coerce me in anything like
that. He might have disagreed with my decisions, I don't
think he was particularly on board with the vision that
I had for the Diocese, but he didn't work against it in any
overt way. No, I wasn't. I felt that we had a good
working relationship, he as the Dean, present all the time
in Newcastle; I was away around the Diocese a lot so it was
appropriate that he had that profile and I thought he was
respectful towards me.

Q. When you commenced as the Bishop, or shortly before
that, did you have any kind of handover period with
Bishop Herft?
A. No, well, I met Bishop Roger in Perth because I was
the Assistant Bishop in Perth when Bishop Roger came to be
the Archbishop, and he met - I gave him a bit of
a handover, really, about the northern region of the
Diocese of Perth. So, you know, we - I remember we went
out to coffee at Hillarys Boat Harbour and I took him as
a tour around the northern suburbs of Perth and showed him
my office and things like that, but, no, nothing like that
at all.

Q. At any time did then Bishop Herft give you any
indication that he had received complaints against
Graeme Lawrence, being complaints that Graeme Lawrence had
sexually abused children?
A. No, not at all.

Q. It is fair to say that you had a pretty difficult time
during your tenure as a bishop - the Bishop of Newcastle?
A. I had a terrible time.

Q. Can you tell us about the culture of the Diocese while
you were there?
A. Yes, okay. Well, when I came, there were very big
decisions that had to be made, one of which was about
St John's College at Morpeth. The Diocese had actually decided to sell Morpeth, because it was running at a very significant loss. In fact, I think by the time we wound it up it owed over $1 million to the Trustees of the Diocese, which had to be recouped from the sale. That was one issue.

The Diocese was in decline numerically - I think 16 per cent decline in the previous 10 years. Financially, things were very tight. For example, I couldn't find out how much I was going to be paid when I arrived in Newcastle. No-one knew what the Bishops stipend was and it had to be negotiated with the Diocesan Council.

Then I think one of the other issues was the sense of lack of professionalism in terms of supervision - you know, there was no supervision program for clergy in the Diocese, and that's something I worked to bring in pretty quickly, so that there would be a way in which they could be psychologically supported. Yes.

So there were really big issues. We had only about three students in training, I think, at Morpeth. When I went up there, it was so depressing. The buildings were becoming dilapidated; it was very isolated. There were some other students there who were sort of fee-paying independent students, just interested in theology, but a minimal number of people there and very isolated.

So I began a negotiation with the University of Newcastle which eventually led to establishing a Chair of Theology in Newcastle.

The other thing that I did was to try and address what I thought was a very paternalistic culture in the Diocese, a "father knows best" type culture.

There was also, I think, a strong culture of non-accountability - that people felt they could do whatever they wanted to do and the Bishop should stay away and just turn a blind eye to it. I think some of the initial antipathy that I experienced came because I spent days in parishes and sort of arranged to work with the priests to sort of see what was going on.

Q. Can I ask you a little bit now about the Professional Standards regime in the Diocese of Newcastle?
A. Yes.

Q. Was that introduced after you arrived in the Diocese?
A. No, it became a canon in - I arrived at the end of June and we organised to have the Synod in October, in the second week of October, and so that canon was introduced as an ordinance into the Diocese of Newcastle at that Synod, and it was introduced by Ian Palmer, who is now the Bishop of Bathurst. He had been the chair of the working group that Bishop Herft had set up in order to prepare the Diocese for it. Then it became established practice. And prior to that, they had established the Professional Standards Committee and also entered into an arrangement with the Diocese of Sydney to have, on a pro rata basis, the work from Sydney’s Professional Standards Director, who was Philip Gerber.

Q. And Philip Gerber essentially worked on a part-time basis?
A. As needs basis, yes.

Q. On an as-needs basis as the Director of Professional Standards --
A. Yes, that’s right.

Q. -- for Newcastle?
A. That’s right.

Q. It was in late 2006 that Mr John Cleary was appointed as the business manager of the Diocese?
A. Yes.

Q. And is it right that he acted as the Director of Professional Standards for a period of time?
A. Yes, he did. I think he did that from about 2007. I think Sydney wanted to end the relationship because of the number of cases that they had here, and Philip couldn’t give us the time, and John - hang on, let me just - yeah, 2007 John would have done this, I think. And we were working to try to find somebody, and it took a long time to actually secure somebody, so John Cleary became the acting Director of Professional Standards in that period, and then, towards the end of 2007, maybe beginning of 2008, there was - they secured an appointment. I declined to be on the interviewing panels for these, because I felt I needed to keep at an absolute distance from whoever was working that way, and a woman called Anne Gleeson was
appointed, and she had been working at Zimmerman House, I think, which was the Roman Catholic Diocese Professional Standards Unit, and within about a week or two John came to me and told me that there had been a complaint surfaced against her in Zimmerman House and that she had to be dismissed. And I can remember - because I had never seen this happen before - John walking her down the stairs of the Newcomen Street office and out of the building, because she had been - we had got rid of her.

So he then went on for another extended period being the acting director, until Michael Elliott was appointed at the beginning - I think Michael came in about 2009.

Q. It was about January 2009, wasn't it, that he was appointed?
A. Yes, that's right.

Q. Tell me, would you accept now that there has been a very significant problem in the Diocese of Newcastle with child sexual abuse?
A. Oh, yes.

Q. Were you aware of that very significant problem when you first became the Bishop of Newcastle?
A. No. The only - I mean, in - I think it was in July, I had a letter from the - or an email from the Dean, that was Graeme Lawrence, alerting me to the Ian Barrack trial, but that was the very first thing. I had no idea. There was nothing - no-one had briefed me, no-one had mentioned anything like this. Philip Gerber certainly hadn't told me about anything like that.

Q. By the time you were the Bishop of Newcastle, Peter Rushton was no longer an archdeacon; is that correct?
A. That's right. He had retired, yes.

Q. But he still had a permission to officiate in the Diocese?
A. Yes, I don't think he used it, however. He was quite ill, I think. I remember meeting him occasionally when I was at the cathedral and he was - he was a diabetic and he had kidney - renal failure, I think, and things like that, so he was very unwell.

Q. Did it gradually dawn on you while you were the Bishop that there was a significant problem with child sexual
abuse in the Diocese of Newcastle?
A. Only when Michael Elliott briefed me about - when we
discovered the stuff about Rushton and I met with the
people - you know, as I detailed in my statement, I spent
a Saturday afternoon at Wallsend Parish, when people, on
the half hour, could come and tell me about their
experience. That was - and I think Michael and I talked
about this, and I think we both agreed that there must have
been some kind of network or something that was going on,
because the stories were that Rushton - that a lot of
people used to come over to Wallsend Parish on Sunday
nights and then there was a group of clergy that would
always meet on Mondays at the - I'm not sure if it was the
RSL Club or something like that, and it seemed as if there
was some strange sort of thing going on.

Q. Were you aware, by the time you got to Newcastle, that
[CKC] had been prosecuted on a child sexual abuse charge --
A. No.

Q. -- although acquitted?
A. No, I didn't know that.

Q. Sorry, not acquitted; I withdraw that. That the
prosecution had been discontinued?
A. No, I didn't know that

Q. Were you aware that Allan Kitchingman had been
convicted of child sexual abuse by this time?
A. I did know that - I was told at some stage after I had
arrived that he had been in gaol, yes.

Q. Did you know that Stephen Hatley Gray had been
convicted of child sexual abuse?
A. No, no, I didn't know him.

Q. None of these matters were made known to you?
A. No.

Q. I think you have said in one of your statements that
you considered that you needed to remain independent of the
Professional Standards process?
A. Yes, that's right.

Q. Can you explain why you held that opinion?
A. Oh, well, because that was made very clear in the
development of the General Synod canon, in all of the
working - both at the previous General Synod when it was
initiated, the 2001 General Synod, and then in the work
that the standing committee monitored as the canon was
developed and - because of the past where, you know,
bishops had acted unilaterally about these matters. And so
there was a kind of separation of powers. That was the way
I thought about it: there was a distinct separation of
powers between the episcopate and the Professional
Standards regime.

Q. You obviously worked with Michael Elliott --
A. Yes.

Q. -- from early 2009. Can you describe the nature of
your working relationship with him and whether it changed
over time?
A. Oh, no, I think we had a great relationship, actually.
I mean, you know, like - I probably wouldn't socialise with
Michael; he's not exactly my cup of tea. But I had great
respect for him. I thought he was very professional
and I really admired the way in which Michael was able to
win the trust of victims, and that was very clear. When
I met - you probably will go into this later, but when
I met with [CKA] and [CKH] it was very clear that Michael
had played a very significant role in helping them come to
terms with what they had suffered and enabling them to feel
strong enough to be able to proceed with their complaints.
But, mind you, I mean, Michael was good in briefing me and
I - the only times I sort of responded to Michael were
I think probably about three times. One was I did advise
against the meeting at Cooks Hill, which really was
a disaster.

Q. And I will come back to ask you about that.
A. Okay. And I also I did I think write to him a couple
of times about administration, ensuring that we were really
dotting "i" and crossing "t"s because I was so worried
about the litigious nature of those people who had been
respondents.

Q. Can I take you to a particular part of your first
statement, please, Bishop Farran. That's the 18 July
statement. Could I take you to paragraph 192.
A. Yes.

Q. Here you refer to a set of historical confidential
files kept in --
A. Are you going to show it to me?

Q. I am sorry, can you not see it?
A. No, no, there is nothing here.

Q. Sorry about that, I jumped ahead of you.
A. Here it is now.

Q. If I can direct your attention, Bishop, to paragraph 192, you there refer to a set of historical confidential files kept in a secure and locked cabinet in the Bishop's secretary's office.
A. Mmm.

Q. You say you don't know whether there were any files relating to allegations of sexual abuse. Now, when did you first become aware of these files?
A. Oh, I guess that my then secretary, Pat Woolcock, who I had inherited from Bishop Roger - she probably drew my attention to them. In fact, of course, subsequently, as we've gone through this, when the Reverend Lance Johnston came to see me on 7 December in 2005 about his dissatisfaction with an interview he had had with Bishop Herft, he told me the story of Robert Elmore abusing his two daughters when he was the principal of the college.

Q. I would ask you not to mention the names of his children.
A. I can't remember the two girls' names, sorry. Yes, thanks. Well, anyhow, can I - I can talk about Lance?

Q. Yes.
A. Well, Lance came to see me on 7 December, and he came because he thought that Bishop Herft had recorded the conversation without his permission, and would I make a search of the office to find the tape. And he told me the story about his two daughters, and he was obviously quite a broken person because of it.

Anyhow, as it all unfolded, I asked the then business manager, Mac Campbell, to do a search for any of this material, and I wrote to Bishop Roger - he was the Archbishop then in Perth - you know, about whether that in fact had happened, and he said no, he hadn't recorded it, but there would be a file note. And so Mac instigated a search of the documents.
Now, I saw that, in fact, one of those manila envelopes, those yellow envelopes, was searched for that particular matter, and that Pat had written, "Authorised by Mac Campbell and Bishop Farran" and then "Returned by".

Now, I think Mac, would have searched that particular document in order to see whether there was any - a little cassette or anything like that. But I had never seen any of those files. I knew they were there, and Philip Gerber, when he was in Sydney, had access to it, as we could see from some emails. So when Michael --

Q. Can I just stop you there, Bishop. Is it right that you were made aware as at around December of 2005 that there were files kept in yellow envelopes?
A. Yes, yes.

Q. And did you actually see the yellow envelopes?
A. I'm not sure. I really am not sure, actually, because it was in a - she had the key to the filing cabinet. So whether - I don't - I just can't remember her ever actually opening the drawer and saying, "Look, here are the envelopes here."

Q. But is it right that you at least saw a yellow envelope when you searched for the tape?
A. No, I didn't do the searching. It was Mac Campbell who did the searching. I've just seen it on the material that you've put through here.

Q. Just so I understand, did you see any yellow envelopes?
A. I don't think so. I just know that - I don't think I actually physically handed them over to Michael Elliott, either. I think that I said to Michael, when he came to the office - because he was working offsite; he was working at Zimmerman House - "Michael, there are these envelopes here. They will be in the secretary's filing cabinet" and - yes.

Q. So you did know there were envelopes --
A. Oh, yes.

Q. -- by the time you were dealing with Michael Elliott?
A. Yes, yes.

Q. And did you know that some of those envelopes, at
Q. Did it occur to you, when you became aware of the existence of the envelopes, to review the envelopes to understand what allegations were being made?
A. No, because I thought that would have been a breach of the separation of powers - that in fact that was the province of the Director of Professional Standards.

Q. So is there any reason why you couldn't refer the matters to the Director of Professional Standards to look at?
A. Well, I presumed that - I presumed that he would be referring them to me if I needed to know anything.

THE CHAIR: Q. Bishop, can we just understand, it would be an unusual situation in a corporation where the managing director didn't know what was happening in relation to all of his staff in relation to serious behavioural problems; you understand?
A. Yes, I understand that.

Q. And you say that you saw yourself as being separate from the Professional Standards people and the work they were doing, but did you have an understanding as to when you would be briefed and about what matters?
A. Oh, yes. I mean, it was pretty clear in the protocol, the 2005 protocol that was attached to the ordinance, that there would be briefings given by the Director of Professional Standards to the Bishop on an as-needs basis.

Q. I understand that. Was your understanding, though - I understand the words of the document, but was your understanding that you would be told if there was an allegation of a problem with any of your priests?
A. Oh, yes, that was my understanding, yes.

Q. So it wasn't really quite a separation of powers in the complete sense; you expected, and I take it you believe you were told, when problems came to surface --
A. Yes.

Q. -- in relation to individual --
A. And that was certainly true - it was a little more
tricky with Philip Gerber, because he was harder to
actually keep in contact with. But when John Cleary became
the acting director, and certainly with Michael Elliott as
director in place, they did brief me, yes.

MS SHARP: Q. So from late 2005 you were aware that
there had been some very serious instances of child sexual
abuse in relation to Lance Johnston's children?
A. Well, certainly I knew about Johnstons and I knew
about Barrack.

Q. At any time did you have a discussion with
Philip Gerber about briefing you on child sexual abuse
allegations within the Diocese?
A. I can't remember that specifically. I had discussions
were Philip about ensuring that there was Safe Ministry
training, and there is an email trail about all of that.
We had a discussion about the process followed with the
Barrack matter, because that was clearly inadequate, and
we - you know, what could be put in place to ensure that
that didn't happen again.

Q. And just returning to that Barrack matter, you dealt
with that fairly soon after becoming the Bishop of
Newcastle?
A. Well, the trial - I think the trial happened in - oh,
no, the trial happened in 2006, I think, but I was alerted
to it in 2005, and that's when I met with --

Q. I will ask you not to name names.
A. No, I was going to use the pseudonym. Yes, it's gone
out of my brain. [C] - hang on.

Q. [CKU]?
A. Yes, that's right. No, [CKR].

Q. [CKR].
A. And I was really worried about [CKR] because I felt
that - and as the support person that we arranged, picked
for her - I felt that she had been let down very badly by
the Diocese, and therefore we tried very hard to support
her, and I tried to explore things like finding her
a holiday house where she could have some paid leave, where
she could recuperate and things like that.

Q. So it is fair to say that very early on in your tenure
as Bishop you were aware that the Diocese had dropped the
ball in relation to one allegation of child sexual assault?
A. Yes, yes.

Q. And then you were made aware by Lance Johnston of what
had - the offences that Robert Elmore had committed against
his daughters?
A. Yes, yes, that's right.

Q. Did it occur to you at that stage that there may be
a problem with child sexual assault in this Diocese?
A. No, I didn't think there was a systemic problem, no.

Q. Is it right that you didn't think there was a systemic
problem until you started to be made aware of the Rushton
allegations?
A. Yes, I think that's correct.

Q. You say that you made Michael Elliott aware of the
yellow envelopes; is that right?
A. Yes, that's right.

Q. Did you ask him to conduct any sort of review of the
contents of the yellow envelopes?
A. No, I don't think I did. I just assumed that in his
professionalism he would do that, yes.

MS SHARP: I am about to go on to a new topic,
your Honour, it might be a convenient time.

THE CHAIR: Very well. 11.30 in the morning.

AT 4PM THE COMMISSION WAS ADJOURNED TO THURSDAY,
17 NOVEMBER 2016 AT 11.30AM