



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

**PUBLIC HEARING INTO VARIOUS INSTITUTIONS RUN BY CATHOLIC CHURCH
AUTHORITIES IN AND AROUND BALLARAT**

CASE STUDY 28

OPENING ADDRESS BY SENIOR COUNSEL ASSISTING

INTRODUCTION

1. This is the resumption of the 28th case study the subject of a public hearing by the Royal Commission. It is the third of three public hearings into various institutions run by Catholic Church authorities in and around Ballarat and the responses of those authorities to allegations of child sexual abuse.
2. The first public hearing was concerned primarily with the impact of child sexual abuse on survivors who were abused by Catholic clergy and religious in various institutions in the Diocese of Ballarat. Seventeen male survivors gave evidence about their experiences. The Royal Commission also heard from a psychiatrist about the literature attesting to the wide ranging psychological effects, both long and short term, of child sexual abuse.
3. In that public hearing, the Royal Commission heard evidence from Gerald Ridsdale, a former priest of the Diocese of Ballarat who has been convicted

of some 138 offences against children, involving 53 victims. A transcript of a private hearing conducted with Paul David Ryan, a former priest in the Diocese of Ballarat, was received into evidence. Ryan has been convicted of three charges of indecent assault against one victim.

4. The second public hearing was primarily concerned with the knowledge of the Bishop and priests in the Diocese of Ballarat of allegations of child sexual abuse by Catholic clergy and religious. That hearing also examined the response of the Diocese to such allegations, including the movement of offending priests from one parish to another. Eight current and former priests in the Diocese of Ballarat gave evidence.
5. In that hearing, the Royal Commission also heard evidence about the response of the Diocese of Ballarat and Victoria Police to complaints against Monsignor John Day, a priest in the Diocese of Ballarat, in Mildura in the early 1970s. The Royal Commission heard from two witnesses who were former officers with Victoria Police, one of whom was the Chief Commissioner from 1977 until 1987.

Third public hearing in Case Study 28

6. The focus of this hearing will be on the response of the Christian Brothers in Victoria to allegations of child sexual abuse made in relation to six brothers, all of whom spent time working at schools in the Diocese of Ballarat.

7. The Royal Commission will also hear further evidence about the response of the Diocese of Ballarat to allegations of child sexual abuse by Catholic clergy and religious in this hearing. There will be evidence about Bishop Mulkearns' referral of priests to psychologists and other treatment providers following complaints of child sexual abuse.
8. The Royal Commission will receive a statement from Peter Evans, a former priest psychiatrist. Dan Torpy, a former priest psychologist, and the former Bishop of Ballarat, Ronald Mulkearns will give evidence. I will say more about their expected evidence.
9. Next week, the Royal Commission will hear evidence via video link from Cardinal George Pell. That evidence will be in relation to this case study as well as Case Study 35 – the Catholic Archdiocese of Melbourne. I will say more about Cardinal Pell's expected evidence, and the arrangements that have been made for him to give evidence from Rome.
10. If any party with leave is of the view that evidence from a particular witness or a document should be heard or tendered, the process set out in the Practice Guidelines should be followed. That is, I should be approached with a copy of the document or statement (unless for reasons stated, that is impractical), and unless completely irrelevant, it is likely the witness will be called or the document tendered. Any submission ultimately made about a particular witness or document not being in evidence will be considered in light of this Practice Guideline.

11. There will be a submissions process for both Case Study 28 (Diocese of Ballarat) and Case Study 35 (Catholic Archdiocese of Melbourne). The dates for that process will be announced at the conclusion of this hearing.

CONGREGATION OF THE CHRISTIAN BROTHERS

12. The Congregation of the Christian Brothers ('Christian Brothers') is a Catholic religious order. From 1967 until 2007, the Christian Brothers in Australia were organised into four provinces. Since 2007, the Christian Brothers in Australia have formed part of the Oceania Province, which also comprises New Zealand, Papua New Guinea, Timor-Leste and the Philippines. In the first part of this case study, the Royal Commission heard evidence from Brother Peter Clinch, the current Provincial of Oceania Province.
13. The Christian Brothers have been the subject of a previous case study, Case Study 11, which considered the response of the Christian Brothers to allegations of sexual abuse that occurred between 1947 and 1968 at four residential childcare institutions operated by the Christian Brothers in the Western Australian Province.
14. This public hearing concerns the response of the Christian Brothers to allegations of child sexual abuse at institutions in St Patrick's Province which, from 1967 until 2007 comprised Victoria and Tasmania. A focus of this hearing is on knowledge of sexual abuse by Christian Brothers in institutions in the geographical boundaries of the Catholic Diocese of Ballarat.

Christian Brothers Data

15. The Royal Commission has conducted a data survey of all Catholic Church authorities in Australia, including the Christian Brothers.
16. The data presented in this hearing related to claims of child sexual abuse or complaints of child sexual abuse that were subsequently substantiated, that have been received by any Catholic Church authority during the period 1 January 1980 to 28 February 2015, against one or more Christian Brothers.
17. The data showed that in Australia:
 - a. 853 people have made either a claim or substantiated complaint of child sexual abuse against one or more Christian Brothers;
 - b. 281 Christian Brothers were subject to one or more claims or substantiated complaints of child sexual abuse;
 - c. the gender of the people who made either a claim or substantiated complaint of child sexual abuse against one or more Christian Brothers, was 98% male;
 - d. 75% of complainants were under the age of 13 years at the time of the alleged child sexual abuse;
 - e. the total reported amount of compensation paid by the Christian Brothers in relation to claims against one or more Christian Brothers was \$37.3 million with an average payment per claim of \$64,000.

18. The data also showed that 45% of all people who made a claim or substantiated complaint of child sexual abuse against one or more Christian Brothers did so in relation to incidents alleged to have occurred in Victoria and/or Tasmania.
19. Of these claims and substantiated complaints, where the date was known, the decade with the highest number of alleged incidents of child sexual abuse was the 1970s, with 132 claims or 35% of these claims.

Christian Brothers in Ballarat

20. The Christian Brothers operated or provided staff for six institutions in Ballarat and Warrnambool ('Ballarat Christian Brothers school'):
 - a. St Alipius Boys' School, Ballarat East
 - b. St Patrick's Primary School, Drummond Street Ballarat
 - c. St Patrick's College, Ballarat
 - d. St Paul's Technical School, Ballarat
 - e. St Joseph's Primary School, Warrnambool
 - f. St Joseph's Christian Brothers College, Warrnambool
21. Six brothers who taught at one or more of these institutions will be considered in this hearing. They are:
 - a. Brother CCK
 - b. Brother Stephen Farrell
 - c. Brother Edward Dowlan
 - d. Brother Gerald Leo Fitzgerald

e. Brother BWX

f. Brother CCJ

22. Each of these brothers, apart from Brother BWX and Brother Fitzgerald, has been convicted of child sexual abuse offences. Brother Fitzgerald died in 1986. Three of these brothers have been assigned pseudonyms. The Royal Commission is required to deal with evidence in a way that does not prejudice current or future criminal proceedings.
23. In 1973, the following brothers taught at St Alipius Boys' School which had classes from grades 3 to 6: Brother Fitzgerald (grade 3), Brother Farrell (grade 5), and Brother CCK (grade 6). Father Gerald Ridsdale was the assistant priest in Ballarat East, and the school chaplain. In 1976, St Alipius Boys' School closed.
24. In the first public hearing into Ballarat, the Royal Commission heard evidence from ten men that they were sexually abused at St Alipius Boys' School. The Royal Commission also heard evidence from seven men that they were sexually abused at St Patrick's College in Ballarat. Most of those allegations related to sexual abuse by Brother Dowlan.
25. The data produced to the Royal Commission revealed that 56 people have made a claim or substantiated complaint of child sexual abuse against one or more Christian Brothers in relation to a Ballarat Christian Brothers school. Sixteen of these people made allegations against more than one accused.

26. Of the claims and substantiated complaints of child sexual abuse against one or more Christian Brothers in relation to a Ballarat Christian Brothers school, 61% related to St Alipius' School, Ballarat East and 34% related to St Patrick's College, Ballarat. Some of these claims included both of these schools.
27. Of the 56 claims and substantiated complaints of child sexual abuse against one or more Christian Brothers in relation to a Ballarat Christian Brothers school:
- a. 22 (39%) reported that the allegations also involved physical abuse;
 - b. the gender of the people who made a claim or substantiated complaint, was 100% male;
 - c. the average age at the time of the alleged child sexual abuse was 10 years old; 94% of claimants were under the age of 13 years;
 - d. 71% alleged the incidents to have occurred in the period from 1969 to 1974 (inclusive).

KNOWLEDGE OF CHILD SEXUAL ABUSE BY BROTHERS IN BALLARAT

28. The Christian Brothers teaching in the city of Ballarat lived in a community at St Patrick's College. Brother Paul Nangle was the Superior of the community in Ballarat from 1973 until 1979. He was headmaster of St Patrick's College from 1974 until 1979. Brother Nangle will give evidence in this hearing.

29. A number of former students of St Patrick's College and St Alipius Boys' School gave evidence in the first public hearing that students and some staff members had an awareness of the risk of sexual abuse by Brothers CCK, Fitzgerald and Dowlan, and Father Ridsdale.
30. Brother Nangle will be asked about complaints he received or rumours or allegations he became aware of as headmaster of St Patrick's College and Superior of St Patrick's Christian Brothers community in the 1970s.
31. The Royal Commission will also hear evidence from Brother Brian Brandon. Brother Brandon was a member of the Provincial Council of St Patrick's Province from 1984 until 1996. He has been part of the Professional Standards Management for the Christian Brothers from 1993 until the present.
32. Brother Brandon will give evidence about his knowledge of offending by Christian Brothers in St Patrick's province, and the discussions of child sexual abuse at provincial meetings from 1984 to 1996 when appointments of brothers were made.

Brother CCK

33. The data showed that the highest number of claims or substantiated complaints of child sexual abuse against an individual Christian Brother that alleged incidents in Victoria and/or Tasmania was 46, made against Brother CCK.

34. Brother CCK joined the Christian Brothers Novitiate in 1960. He taught at a number of schools throughout Victoria and Tasmania, including St Alipius Boys' School from 1968 until 1973. From 1989 he taught at the Christian Brothers College in Warrnambool. He resigned from that school following police investigations in 1994.
35. The claims of child sexual abuse against Brother CCK related to alleged incidents of abuse occurring in the period from 1963 to 1987 (inclusive). The data showed that the first alleged incident of child sexual abuse the subject of a claim against Brother CCK occurred two years after he professed his initial vows, when he was 22 years old.
36. The average age of the victims at the time of the alleged child sexual abuse was 11 years of age.
37. Of the 46 claims of child sexual abuse against Brother CCK, the data reported that four were civil claims.
38. The data reported that three claims of child sexual abuse against Brother CCK resulted in paid compensation through a civil claim with a total payment for three claimants of \$350,000 at an average of almost \$117,000 per claimant.
39. The data reported that 37 claims of child sexual abuse against Brother CCK resulted in paid compensation through a redress process other than civil

proceedings, with a total payment of \$3.5 million at an average of almost \$95,000 per claimant. There were no payments for costs recorded.

40. These compensation amounts are the total amount paid in relation to claims involving Brother CCK, including claims involving multiple accused. Where there are multiple accused it is not possible to apportion the compensation paid in relation to each individual accused.

Brother Stephen Farrell

41. Brother Farrell's first appointment as a Christian Brother was to St Alipius Boys' School in Ballarat East. He left St Alipius towards the end of the school year in 1974 at which time he also left the Christian Brothers.
42. In this public hearing, the Royal Commission is expected to hear evidence from a survivor, Mr CCD about a complaint made to Brother Nangle about Brother Farrell when Mr CCD was a student in year 5 at St Alipius Boys' School.
43. The Royal Commission will receive into evidence a transcript of a private hearing held with now Mr Farrell in 2015. In that private hearing, Mr Farrell told the Royal Commission that Brother Nangle came to him and said he had had a complaint from Mr CCD and with that he 'just put his arms around me and gave me a long cuddle. No words were said. He then just walked out. And that was Brother Nangle's way of coping with this – you know, of helping me'.

44. Brother Farrell saw Catholic psychologist Ronald Conway in 1974 before he left the Christian Brothers. After leaving the Christian Brothers, Mr Farrell taught at a parish school in Pascoe Vale.
45. In 1997, Mr Farrell was convicted of nine counts of indecent assault against two boys aged 9 and 10 at St Alipius Boys' School. He was sentenced to two years' imprisonment, wholly suspended. In 2013, Mr Farrell was convicted of a further charge of indecent assault on a 10-year-old boy, Mr CCD, at St Alipius Boys' School. He was sentenced to three months' imprisonment. On appeal, that sentence was wholly suspended.
46. The data produced to the Royal Commission revealed that six people, all of whom were male, have made a claim of child sexual abuse against Mr Farrell alleging incidents of child sexual abuse occurring in the period from 1971 to 1974 (inclusive).
47. The data also showed that the first alleged incident of child sexual abuse the subject of a claim against Mr Farrell occurred in the year he professed his initial vows, when he was 20 years old.

Brother Gerald Leo Fitzgerald

48. Brother Fitzgerald was first appointed as a Christian Brother to East Melbourne in 1921. He held various appointments in the following years in Victoria, including in Ballarat.
49. From 1943, Brother Fitzgerald was working as a probationary officer while living at St Vincent's Orphanage in South Melbourne. In 1950 the

Australian Provincial, Brother Mackey, wrote to Brother Fitzgerald censuring him 'as strongly as possible' for a number of matters, including continuing to have dealings with the boys in defiance of the command given by the Brother Consultors, and allowing one or more boys to enter his room and kissing a boy.

50. Brother Fitzgerald was sent to Albert Park in 1951, but continued to work as a probation officer until 1962, when he was appointed a grade three teacher at St Alipius Boys' School in Ballarat East.
51. In 1968, he was joined by Brother CCK who taught grade 6, and was principal of St Alipius Boys' School. Brother Dowlan taught at St Alipius Boys' School in 1971, and at St Patrick's College from 1973 until 1974. In 1973, Brother Farrell commenced at St Alipius Boys' School. He left at the end of 1974.
52. In 1975, Brother Fitzgerald was 'forced' to retire from his teaching work at St Alipius Boy's School, although he continued to live in St Patrick's community. The 1976 visitation report for that community refers to Brother Fitzgerald and reads:

His difficulties of last year may well have been caused by his having reached that stage of life when for some men control of emotional impulses becomes lessened. He should be watch [sic] against the possibility of future incidents, and if there are any indications of such, I would recommend that he be removed from Ballarat where the boarding situation presents occasions not found elsewhere.

53. The visitation report of 1978 raises concern about Brother Fitzgerald visiting the junior dormitory 'to play with boys' and notes 'this caused some confusion and the Superior told the Community that the Brothers should not visit dormitories without permission'.
54. Brother Fitzgerald died in 1987. He was never charged.
55. The data produced to the Royal Commission revealed that 15 people, all of whom were male, made a claim of child sexual abuse against Brother Fitzgerald alleging incidents of child sexual abuse occurring in the period from 1950 to 1975 (inclusive). The average age of the victims at the time of the alleged child sexual abuse was eight years old.
56. The data also showed that the first alleged incident of child sexual abuse the subject of a claim against Brother Fitzgerald occurred 30 years after he professed his initial vows, when he was 48 years old.

Brother Edward Dowlan

57. Brother Dowlan's first appointment was as the grade 5 teacher at St Alipius Boys' School. In a 2004 email to Brother Brian Brandon, Brother Peter Dowling wrote that he had spoken to Brother CCK about allegations from Mr CCA, a boarder at St Patrick's College in Ballarat.
58. Brother Dowling reported Brother CCK as saying that Mr CCA's mother told him that Brother Dowlan was taking pictures of her boys in the showers at

Ballarat. Brother CCK did not know if this was true or not, but he did tell the Superior, Brother Stewart, about her comments.

59. In 1972, Brother Dowlan moved to St Thomas More Boys' Regional College at Nunawading. In 1973, Brother Dowlan transferred to St Patrick's College in Ballarat.
60. In the first public hearing, Paul Tatchell gave evidence that after he was raped by Brother Dowlan in the dormitories at St Patrick's one night, he called his parents and then took Brother Dowlan into the main area and started kicking the door. Brother Nangle came down and constrained him and he was locked in a cupboard until the morning when his parents came to pick him up.
61. In 1994, Mr Tatchell's mother made a police statement in which she stated that when she arrived at the school with her husband, she spoke to Brother Nangle who then called Mr Tatchell to his office to speak with them. She stated 'Paul was distressed when he walked in and I asked him what the trouble was and he said that they were a heap of poofers and get me out of here'.
62. In this public hearing Timothy Barlow, a former student of St Patrick's College, is expected to give evidence that in 1973 he was at a meeting of the Student Representative Council at Patrick's, when the Council moved that Brother Nangle tell Brother Dowlan to stop putting his hands down kids' pants, or words to that effect. Mr Barlow is expected to give evidence

that he was called into Brother Nangle's office and told to recant the allegation at the next school assembly about Brother Dowlan touching boys.

63. Another former student of St Patrick's College, Martinus Claassen, is expected to give evidence that he was sexually abused by Brother Dowlan when he was in Form One in 1974. He told his mother, and then attended a meeting with her and Brother Nangle at St Patrick's College. He is expected to give evidence that he told Brother Nangle what happened with Brother Dowlan. He is expected to give evidence that Brother Nangle terminated the meeting, and that he never heard anything else about the interview from Brother Nangle.
64. In 1997 Brother Scott, the principal of another Christian Brothers school in Ballarat, told an investigator for Catholic Church Insurances that Brother Dowlan attended a camp in 1973 or 1974 with Brother Scott and a group of boys. Brother Scott recalled there were rumours started by a student who attended the camp afterwards that Brother Dowlan 'had played funny buggers' while on the camp. He never invited Brother Dowlan on another camp.
65. In an affidavit sworn in 2010 Mr Holloway, a former teacher at St Patrick's College, stated that about two thirds of the way through 1974, he received a telephone call from parents asking him to look into inappropriate behaviour by Brother Dowlan against two boys in the junior school. He subsequently attended a meeting with Brother Nangle and Brother

Dowlan in which, he stated, Brother Nangle asked Brother Dowlan if he put his hands down the pants of the boys. Brother Dowlan denied the allegations.

66. Brother Dowlan was moved to Warrnambool in 1975. The visitation report for that year records that Brother Dowlan 'is immature, as shown by spending more than the normal time with boys, rather than with the Brothers'. Brother Dowlan took his perpetual vows at the end of this year.

67. The visitation report for the following year recorded in relation to Brother Dowlan, 'While he may have been indiscreet, even wrong in one two [sic] incidents, the visitor is not satisfied that he got adequate support and encouragement from the Superior.' That report also stated:

In the visitor's view, the most serious single failure of the Superior concerned an unfortunate matter which arose in his own Form Five class during the second half of last year. Rumours were spread by some of the boys that there was an improper relationship between one of the Brothers and one of the Form Five students. It appears the student concerned suffered quite a lot of "persecution".

68. The brother concerned is not named in this report. Brother Dowlan was moved the following year, to a school in Devonport Tasmania. By 1985, after several other appointments, Brother Dowlan was sub-superior of the East Melbourne community, and was deputy headmaster of Cathedral College. The visitation report of that year records:

Ted is frequently absent at evenings and holidays, weekends. This he believes is in harmony with his apostolate to the boys. How well discerning he is I would question. Tony is a relative of his and finds this a hindrance to speaking the truth to Ted in love. Tony remarked that Ted is overtly affectionate in expression with his boys. Ted felt he was not imprudent in his expressions of affection when confronted with this remark.

69. In a letter from Chanel College to the then provincial Brother Noonan, Brother Dowlan wrote about 'his desire to love and be loved' and that 'The greatest aim in my life over a number of years has been to be a great lover'. He also wrote:

You mentioned, Paul, when we were speaking that some people had mentioned to you that I was too affectionate – perhaps this is true. But as far as I am concerned this is me and I have this dream that love can be the motivating force within my classroom. I know now that if you are really concerned about this, and if this is the main reason why I am being changed then I know that I cannot be a brother any more.

70. In 1986, Brother Dowlan was sent to undertake a year of study. The following year, he was sent to St Mary's in Geelong. The 1988 visitation

report of St Mary's records that Brother Dowlan had found his counselling very helpful.

71. That report also records that the principal, Brother John O'Halloran, was told that a year 7 boy from St Augustine's indicated during therapy that Brother Dowlan had related to him 'improperly in some way'. Brother O'Halloran is recorded as being 'convinced' that there could be no substance in the allegation. The brother undertaking the visitation did not raise the matter at all with Brother Dowlan.
72. The following year, Brother Dowlan was appointed principal of St Vincent's Special School. He resigned from that position in September 1990. A handwritten note on Brother Dowlan's list of appointments reads, 'after being assaulted by a boy [I] was told I would have to go to court to answer questions about "overstepping my bounds as a headmaster". This was the last straw.'
73. In a letter dated 1996, after Brother Dowlan had been convicted, a former deputy director of St Vincent's wrote to the Provincial voicing his dismay and anger. He wrote:

As you are probably aware, many of St. Vincent's residents had been sexually abused, and often displayed overt and outrageous sexualised behaviour... A major part of our endeavours at St. Vincent's was getting these boys to a point where they would

expect not to be abused. Now I find that all of this work could have been compromised by the presence of a man like Br Dowlan.

74. Between 1991 and 1993, Brother Dowlan taught at the Catholic Regional College in Geelong. In a 2001 letter to the Christian Brothers in Rome, Brother Michael Godfrey wrote, 'The Province Leadership Team developed real concerns about Ted's lifestyle in 1993 when there was growing innuendo and rumours about his behaviour coming to the surface.' Brother Dowlan was interviewed by Victoria Police on 17 August 1993.
75. In 1996, Brother Dowlan was convicted of 16 counts of indecent assault against 11 boys at four different Christian Brothers' schools. He was sentenced to nine years and eight months' imprisonment, with a six year non-parole period. On appeal, this sentence was reduced to six years and six months with a four year non-parole period. In 2015, Brother Dowlan was convicted of 33 counts of indecent assault and one count of gross indecency against 20 boys. He was sentenced to six years imprisonment, with a three year non-parole period.
76. The data produced to the Royal Commission showed that 28 people all of whom were male, have made a claim of child sexual abuse against now Mr Dowlan alleging incidents of child sexual abuse occurring in the period from 1969 to 1984 (inclusive).

77. The data also showed that the average age of the victims at the time of the alleged child sexual abuse was 11 years. The first alleged incident of child sexual abuse the subject of a claim against Mr Dowlan occurred the same year he professed his initial vows, when he was 31 years old.

Brother BWX

78. Brother BWX entered the juniorate of the Christian Brothers in 1953. His first appointment was in Perth in 1958.

79. A letter to the Christian Brothers of 25 August 1960, records that the then Auxiliary Bishop of Perth received a complaint about Brother BWX who was subsequently interviewed and admitted to ordering at least seven boys to undress in the Brothers' house where he 'spoke to them of the function of genital organs, touching the organs during the process'.

80. The letter records that the Bishop will leave any action to the Christian Brothers, and recommends that the brother be removed immediately. It also notes that 'a transfer during the term break would not be so noticeable and would more easily smooth out embarrassment'.

81. In August 1960, Brother BWX was moved to Brunswick in St Patrick's Province. In 1963, he was appointed to St Joseph's Christian Brothers College Warrnambool, in the Diocese of Ballarat.

82. In 2003 a former student of St Joseph's, Mr BWU, told Towards Healing that in 1964 he attended a retreat with Father Madden who read out a

note that Brother BWX was molesting children or interfering with children. Mr BWU stated that Father Madden said, 'Is this right, does anyone know about this?' and about half a dozen hands went up in the room.

83. Father Madden is expected to give evidence by statement that he was not present at any retreat when 'any such subject' came up. However, he is expected to give evidence that when he was chaplain to the Christian Brothers College in Warrnambool between 1964 and 1968, he overheard a group of 13 or 14-year-old students saying, 'be careful if BWX offers to give you a massage'. Father Madden passed this on to the principal, Brother Williams, and 'had the impression' Brother Williams understood what he meant.
84. In an interview with Towards Healing assessors in 2003, Brother BWX stated that in 1966 the principal of St Joseph's, Brother Williams, spoke to him about hugging some members of the choir and warned him that 'he should not go one to one with boys or touch their genitals'.
85. In 1967, Brother BWX was moved to North Melbourne. After two more appointments, he was sent to St Patrick's College in Ballarat in 1971. Father Madden is expected to give evidence that some years after Warrnambool, he became aware that Brother BWX was teaching at St Patrick's College in Ballarat. He spoke to the chaplain at St Patrick's, but he does not know whether the chaplain passed on to anyone what he said.

86. The July 1973 visitation report for Ballarat records that 'nearly all the Brothers taking charge of dormitories were fresh to the task. It turned out, too, that a big percentage of these either had psychological problems or lacked the dedication.' It records that this problem particularly centered on Brother BWX who was 'psychologically unfit for the job.'
87. That report also records that Brother BWX was transferred a week before the visitation commenced, and that this change was 'necessitated because of the revelation of a serious act of indiscretion (even misconduct) of which he was guilty with respect to two of the senior boys separately.' The report continues, 'A close watch will have to be kept on him in the future, for he has now at least twice offended in his conduct with boys'. It noted that he will resume almost immediately consultation with Catholic psychiatrist, Dr Eric Seal.
88. Brother BWX was transferred to St Kevin's College in Toorak as sports master. In 1996 Mr BWW, a former student of St Kevin's, informed the Christian Brothers that he had been indecently assaulted by Brother BWX when he was 16 years old in the late 1970s. He stated that in 1981, he went to Treacy College to make a formal complaint and spoke to the head of the Brothers.
89. Mr BWW also referred to a telephone conversation he had earlier in 1996 with the then-Provincial Brother Godfrey, and wrote:

you informed me that you had spoken to Brother Norton [sic] who was the Provincial at the time. You said that Brother Norton had a

memory of someone coming to speak to him about Br BWX but cannot now remember that person's name. Brother Norton said he made some records of this visit at the time. He spoke to Brother BWX who vigorously denied the allegations. Brother Norton directed Brother BWX to see a psychiatrist or psychologist or counsellor – he couldn't remember which – who subsequently recommended that Brother BWX not be removed from school's ministry. When Brother Norton finished his term as provincial, he destroyed such records as he had made regarding the matter because they were personal records; he says, however, that he passed on a verbal report to his successor. Brother Norton also said that there had been other verbal allegations against Brother BWX but nothing in writing.¹

90. In January 1994, Brother BWX was sent to the United States of America for treatment for child abuse incidents. In 1998, he signed a 'Continuing Care Contract' with the Christian Brothers, which included the provision, 'I will abstain from all sexual relationships with teenagers and married women; and, with others.'
91. In 2004, Brother BWX was granted three years away from the Christian Brothers. He was re-admitted to full membership of the Congregation in 2006.

¹ Brother Chanel Naughtin was the Provincial of St Patrick's Province from 1972 to 1984.

92. The data produced to the Royal Commission showed that two people have made a claim of child sexual abuse against Brother BWX alleging incidents of child sexual abuse occurring in the period from 1961 to 1976 (inclusive).
93. The data also showed that the first alleged incident of child sexual abuse the subject of a claim against Brother BWX occurred four years after he professed his initial vows, when he was 22 years old.

Brother CCJ

94. Brother CCJ entered the Christian Brothers juniorate in 1966. He taught at various schools in Victoria from 1971. In 1973, he commenced at the Christian Brothers Trinity College in Brunswick. The principal at this school was Brother Len Francis.
95. The 1973 visitation report for Brunswick records that Brother CCJ found the first term very difficult, and continued:

During this unsettled period there was an indiscretion with a boy of which he realises the seriousness, and it would seem that a repetition is unlikely... Brother CCJ is now better in his attitude, he has a good influence with his pupils.

96. An undated note written by Brother Francis from Trinity College states that Brother CCJ had on 'two or three occasions earlier in the year been very unwise in speaking freely of sex and asked too personal questions of boys and was too familiar in his touching of the boys. He seems to have avoided such actions since.'

97. In 1974, Brother CCJ took his perpetual vows with the Christian Brothers. From 1977, Brother CCJ taught at Cathedral College in East Melbourne. The visitation reports of 1978 and 1979 record that Brother CCJ was the organizer of the sexuality program at the school. The 1979 report states that he 'organises a progressive course in sex education from Forms 1 to 4'.
98. The June 1981 visitation report records that Brother CCJ 'spends a considerable amount of time counselling the boys.' In 1982, Brother CCJ was transferred to St Patrick's College in Ballarat where he remained until 1987 when he was sent to St Joseph's community in Geelong. Brother CCJ was Superior of this community from 1987 until 1988 when he resigned. During this period, Brother CCK was the sub-superior of the same community.
99. In 1989, Brother CCJ attended a Dependent Treatment Program at Holyoake in Western Australia for alcohol and other drug users. From September 1989, Brother CCJ taught at Keaney College in Bindoon, Western Australia. In 1990, St Patrick's Province sent a personnel sheet for Brother CCJ to the Western Australian Christian Brothers authorities. It is unclear whether those authorities were informed of the earlier complaints and concerns about Brother CCJ.
100. On 4 July 1994 Brother Laurie Negus, a teaching brother at Keaney College Bindoon rang the Western Australian Provincial to report that Brother CCJ

had used unsuitable and abusive language to some students, including terms such as 'slimy' and 'arsehole'.

101. On 31 July 1994 Brother Laurie Negus, a teaching brother at Keaney College Bindoon, wrote a confidential report about Brother CCJ. That report set out a series of concerns dating from January 1993, including an incident in May 1993 which Brother Negus discussed with Brother CCJ that involved grabbing 'the testicle in a grip'. He wrote that Brother CCJ acknowledged he may have been very stupid, but said there was no sexual intention. Brother Negus was satisfied this was the case and warned him not to allow any compromising situations to occur again.
102. Another incident related to graffiti written by a year 10 boy 'very much implying' that Brother CCJ interfered with boys. That boy was subsequently asked to 'move on', and Brother Negus had the graffiti painted over and did not inform Brother CCJ of this.
103. Brother CCJ was subsequently asked to resign from Keaney College for a time due to conflict with Brother Negus. He spent a number of years studying art therapy, including in the United States.
104. In August 1997 Brother Shanahan, the then Western Australian provincial, agreed to approach three metropolitan schools, as well as Bindoon, to see whether they were interested in Brother CCJ's services on a part-time basis to supplement their work in pastoral care, counselling and special education.

105. From 1998, Brother CCJ resumed full-time ministry, undertaking art therapy at several schools in Western Australia.
106. In September 2000, the Christian Brothers received a complaint from a former student who was in Brother CCJ's class in 1972. That student outlined a number of incidents and stated that in his opinion, Brother CCJ should not be permitted to have contact with children. The Western Australian provincial authorities were informed of this by the Provincial of St Patrick's province. These allegations were discussed with Brother CCJ towards the end of September 2000. He is recorded as saying that what he had done in sex education at the time had been over familiar and invasive.
107. In October, Brother CCJ agreed to undergo an assessment with Encompass the following year. He continued teaching until the end of the school year.
108. Brother CCJ attended an Encompass course during 2001. In 2002, he was interviewed by Victoria Police, and in 2005 he pleaded guilty to ten charges of indecent assault against students at Trinity College in Brunswick in the 1970s.
109. The data produced to the Royal Commission showed that 17 people made a claim of child sexual abuse against Brother CCJ alleging incidents of child sexual abuse occurring in the period from 1971 to 1983 (inclusive).
110. The data indicated that the gender of the people who made a claim of child sexual abuse against Brother CCJ was 94% male and 6% female. The

average age of the victims at the time of the alleged child sexual abuse was unknown for females and 11 years for males.

111. The data also showed that the first alleged incident of child sexual abuse the subject of a claim against Brother CCJ occurred two years after he professed his initial vows, when he was 22 years old.

THE CATHOLIC DIOCESE OF BALLARAT

112. In the first Ballarat hearing, the Royal Commission heard evidence from Gerald Ridsdale about the treatment he received in 1975 from Father Peter Evans, a priest psychiatrist in Melbourne, after a complaint was made to Bishop Mulkearns about his conduct in Inglewood.

113. Dr Peter Evans is expected to give evidence that he had three or four sessions with Gerald Ridsdale in 1975. He is expected to give evidence that he did not speak with Bishop Mulkearns before, during or after these sessions. Ridsdale denied the allegation that the police were investigating in Inglewood, and gave no history of previous complaints of sexual abuse.

114. Dr Evans is expected to give evidence that he made no judgment on whether Ridsdale was guilty. He simply treated him by allaying his anxiety pending the outcome of police investigations. He is expected to give evidence that the realisation that no charges would be laid against him caused a marked relief in Ridsdale's anxiety symptoms.

115. Dr Evans is expected to give evidence that he did not give anyone an opinion on Ridsdale's suitability for ministry after these sessions, nor was there any request that he do so.
116. The Royal Commission will also hear evidence from Dan Torpy, a former priest in the Diocese of Ballarat. Mr Torpy was an assistant priest in Mildura when Monsignor John Day resigned as parish priest. In the second Ballarat hearing, the Royal Commission heard evidence about the circumstances surrounding Monsignor Day's resignation, and the complaints made to Bishop Mulkearns about his sexual abuse of children in Mildura.
117. Mr Torpy was a member of the Ballarat Diocesan College of Consultors from 1977 until 1979, when he was sent to Rome to study psychology. He returned to the Diocese in 1983. In the second Ballarat hearing, the Royal Commission heard evidence from a number of priests who were members of the Consultors about the matters discussed at those meetings.
118. Mr Torpy will be asked about his knowledge of complaints or rumours of sexual abuse of children by clergy in the Diocese of Ballarat. He will also be asked about treatment he provided, or advice he gave to Bishop Mulkearns in relation to the appointment of priests against whom complaints of child sexual abuse had been made including Father Paul David Ryan, Father BPB and Father Leslie Sheahan.

Bishop Emeritus Ronald Mulkearns

119. The Royal Commission will hear evidence from Bishop Emeritus Ronald Mulkearns this week. Bishop Mulkearns was the coadjutor bishop of Ballarat from 1968 until 1971 when he became Bishop of Ballarat after Bishop James O'Collins retired.
120. Bishop Mulkearns retired in 1997. Bishop Peter Connors was appointed Bishop of Ballarat in 1997. He held that position until August 2012. Bishop Paul Bird is the current Bishop of Ballarat. The Royal Commission heard evidence from Bishop Bird in the first Ballarat hearing.
121. Bishop Mulkearns had ultimate responsibility for the Diocese during much of the period of time being considered in Case Study 28. The Royal Commission has received evidence about Bishop Mulkearns' knowledge of complaints and allegations of child sexual abuse against priests within the Ballarat Diocese, including Gerald Ridsdale.
122. In July 2015, the Royal Commission summonsed Bishop Mulkearns to appear and give evidence in the second Ballarat hearing in December 2015. The Royal Commission received and accepted medical advice that Bishop Mulkearns was receiving palliative care and was unfit to give evidence in December 2015. Bishop Mulkearns remained subject to a Summons to Appear before the Commission.
123. On 5 February 2016, the Royal Commission held a directions hearing in Sydney to consider Bishop Mulkearns' capacity to give evidence. The

Bishop's counsel tendered medical reports concerning his current state of health, and submitted that while the Bishop was prepared to give evidence, his evidence should be given remotely from his nursing home.

124. Having regard to the medical reports concerning Bishop Mulkearns' general health and cognitive difficulties, the Royal Commission will hear Bishop Mulkearns' evidence by video link from his nursing home.

Archdiocese of Melbourne

125. In November 2015, the Royal Commission held a public hearing in Case Study 35 in Melbourne.

126. That public hearing considered the response of authorities associated with the Catholic Archdiocese of Melbourne to allegations of child sexual abuse against clergy associated with the Holy Family Parish and the Holy Family Parish Primary School in Doveton. This primarily involved an examination of the response of the Archdiocese and the Catholic Education Office to complaints about the conduct of Father Peter Searson, the parish priest at Doveton.

127. The public hearing also considered the response of the Archdiocese to allegations of child sexual abuse against another five priests holding appointments within the Archdiocese – Nazareno Fasciale, Ronald Pickering, Wilfred Baker, David Daniel, and Desmond Gannon.

128. The Royal Commission heard evidence from a number of survivors of sexual abuse by these priests. It also heard from former and current

teachers, a former priest of the Archdiocese, and others who raised concerns or made complaints about these priests.

129. The Royal Commission heard evidence from the current Archbishop of Melbourne, Archbishop Denis Hart and from former Vicars-General and Auxiliary Bishops, Bishop Emeritus Peter Connors and Bishop Emeritus Hilton Deakin. Evidence was also given by former officers of the Catholic Education Office.

130. Case Study 35 adjourned on 4 December 2015 until the evidence of Cardinal Pell is heard.

CARDINAL PELL

131. Cardinal Pell was ordained a priest in the Diocese of Ballarat in 1966. For part of the time he was a priest in Ballarat, he was also one of the consultors to Bishop Mulkearns. In that role he had responsibilities together with the other consultors to give advice to the Bishop on various matters, including the appointments of priests to particular parishes. Cardinal Pell was a consultor at a time when some of the priests who have offended against children were serving in the Diocese.

132. In 1987, Cardinal Pell was appointed an Auxiliary Bishop in the Archdiocese of Melbourne. Archbishop Little was the Archbishop of Melbourne during this time. In 1996, Cardinal Pell became Archbishop of Melbourne. The response of the Archdiocese of Melbourne to complaints and allegations

of child sexual abuse during the period, which included Cardinal Pell's time as an Auxiliary Bishop, is being considered in Case Study 35.

133. Cardinal Pell had responsibilities as an Auxiliary Bishop for areas of the Archdiocese where at least one offending priest was located. As an Auxiliary Bishop, he was a member of the Archbishop's Personnel Advisory Board, and a member of the Curia. Both bodies assisted the Archbishop on matters including the placement of priests.
134. Cardinal Pell is currently the Prefect of the Secretariat for the Economy for the Holy See. He resides outside of Australia and beyond the Royal Commission's jurisdiction. The Royal Commission does not have the power to compel Cardinal Pell to appear before it.
135. In May 2015, Cardinal Pell wrote to the Chair of the Royal Commission, Justice Peter McClellan that he was 'willing, as I have always been, to give evidence should the Commission request this from me, be it by means of a statement, by video-link, or by attendance in person.'
136. The Royal Commission accepted Cardinal Pell's offer to attend in person and give evidence at the second part of the public hearing relating to Ballarat, and the public hearing relating to the Archdiocese of Melbourne. Those hearings were scheduled in Melbourne in November and December 2015. By agreement with the Cardinal, he was to appear in Melbourne from 16 December 2015.

137. In the December hearing, at the request of Cardinal Pell, the Royal Commission recalled Mr David Ridsdale and Mr Timothy Green. Both Mr Ridsdale and Mr Green had previously given evidence relating to Cardinal Pell at the first Ballarat hearing.
138. On 11 December 2015, counsel for Cardinal Pell indicated that because of his present health, he had been advised that he should not take long international flights. For that reason, the Cardinal sought to have his evidence given by video link. The Commissioners did not accede to that application, and in the hope that the Cardinal's health might improve, deferred the issue until February 2016.
139. On 5 February 2016, the Royal Commission held a directions hearing to consider whether the Cardinal's health had sufficiently improved to allow travel to Australia. Cardinal Pell's counsel renewed the application that Cardinal Pell give evidence by video link from Rome. He tendered fresh medical advice in support of the application.
140. The Royal Commission decided that although it was preferable for the Cardinal to give evidence in Australia, it was satisfied that he could give evidence by video link having regard to the medical advice.
141. Cardinal Pell will give evidence during the week following the conclusion of this hearing. The Royal Commission will sit in Sydney for this purpose, and Cardinal Pell will give his evidence by video link from Rome. Sitting times will of course differ from the Royal Commission's usual sitting times,

taking into account the time difference with Rome, and will commence at 08:00am Sydney time on 29 February 2016.

142. Cardinal Pell will be asked about matters relating to his time as an Auxiliary Bishop in Archdiocese of Melbourne, as well as his time as a priest and consultor in the Diocese of Ballarat. Four sitting days are available for this purpose.

143. I am assisted in this hearing by:

- a. Ms Stacey Hahn
- b. Ms Meredith Hagger
- c. Ms Anna Verney
- d. Mr Nick Mabbitt, and
- e. Ms Kate Cormican

Gail Furness SC

Angus Stewart SC

Stephen Free

22 February 2016