

ROYAL COMMISSION INTO INSTITUTIONAL  
RESPONSES TO CHILD SEXUAL ABUSE

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

Level 17, Governor Macquarie Tower  
Farrer Place, Sydney

On Monday, 29 February 2016 at 8.00am

Before

The Presiding Member: Justice Peter McClellan AM

Commissioner: Justice Jennifer Ann Coate  
Mr Andrew Murray

Counsel Assisting: Ms Gail Furness SC  
Mr Angus Stewart SC  
Mr Stephen Free

1 THE CHAIR: Ms Furness, we will sit this morning from 8  
2 now, until 9.30 I think. Is that the arranged time?  
3  
4 MS FURNESS: Yes, Your Honour.  
5  
6 THE CHAIR: And then take a short adjournment at 9.30 and  
7 resume again about 20 minutes later.  
8  
9 MS FURNESS: Thank you, Your Honour.  
10  
11 THE CHAIR: Then sit through until midday, Sydney time.  
12  
13 MS FURNESS: Yes. Just to announce my appearance I appear  
14 to assist the Commission with Mr Stewart SC and Mr Free,  
15 assisted by Ms Hahn, Ms Hagggar and Ms Dargen, and I  
16 understand there will be others who have not yet sought  
17 leave or announced their appearance.  
18  
19 THE CHAIR: Yes, there are many familiar faces, but are  
20 there any new faces? No?  
21  
22 MS FURNESS: Apparently not.  
23  
24 THE CHAIR: Your information is probably not correct.  
25 Very well.  
26  
27 MS FURNESS: Your Honour, the hearing today and over the  
28 next few days is to hear evidence from Cardinal George  
29 Pell. As is known, Cardinal Pell was ordained a priest in  
30 the Diocese of Ballarat in 1966 and for part of the time he  
31 was a priest in Ballarat, he was also one of the Consultors  
32 to Bishop Mulkearns. In that role he had responsibilities,  
33 together with the other Consultors, to give advice to the  
34 Bishop on various matters, including the appointment of  
35 priests to particular parishes.  
36  
37 Cardinal Pell was a Consultor at a time when some of  
38 the priests who had offended against children were serving  
39 in the Diocese.  
40  
41 In 1987, Cardinal Pell was appointed an Auxiliary  
42 Bishop in the Archdiocese of Melbourne. Archbishop Little  
43 was the Archbishop of Melbourne during this time. In 1996  
44 Cardinal Pell became Archbishop of Melbourne.  
45  
46 Cardinal Pell is currently the Prefect of the  
47 Secretariat for the economy for the Holy See. He resides

1 outside of Australia and beyond the Royal Commission's  
2 jurisdiction. The Royal Commission does not have the power  
3 to compel Cardinal Pell to appear before it. Cardinal Pell  
4 has agreed to give evidence and the Royal Commission  
5 decided that, although it was preferable for the Cardinal  
6 to give evidence in Australia, it was satisfied that he  
7 could give evidence via video-link from Rome having regard  
8 to medical advice.

9  
10 Allegations have been made against Cardinal Pell by  
11 four witnesses who gave evidence in earlier hearings. Each  
12 of those witnesses, I understand, is represented and  
13 accordingly I will leave to those representatives  
14 questioning Cardinal Pell about those allegations.

15  
16 I call Cardinal Pell.

17  
18 THE CHAIR: Q. Cardinal Pell, Cardinal, can you see me?  
19 Can you hear me?

20 A. I can see you, certainly, and I can hear you.

21  
22 <CARDINAL GEORGE PELL, sworn: [8.07am]

23  
24 <EXAMINATION BY MS FURNESS:

25  
26 MS FURNESS: Q. Cardinal, would you tell the Royal  
27 Commission your full name?

28 A. George Pell.

29  
30 Q. And your current position, Cardinal?

31 A. As you stated it, Prefect For the Economy here in the  
32 Vatican.

33  
34 Q. And that position, I think, was established  
35 in February 2014?

36 A. It was.

37  
38 Q. What is your function as Prefect of the Secretariat,  
39 Cardinal?

40 A. Something equivalent to a treasurer, to the treasurer.

41  
42 Q. Is that the treasurer for the Vatican; is that right?

43 A. Yes, for the Holy See.

44  
45 Q. Is it the case that you have a delegation of some sort  
46 to be able to expend funds on behalf of the Vatican, or is  
47 your remit unlimited?

1 A. My remit is certainly not unlimited. I answer to the  
2 Council For the Economy, an international body of 15, eight  
3 Cardinals and seven lay people. They are something like  
4 the university senate, to whom I must answer.

5  
6 Q. Cardinal, you're often described as the number third  
7 person in the Vatican; is that accurate?

8 A. I wouldn't say it was; people like to make these  
9 hypothetical lists. Some people would see the financial  
10 affairs of the Vatican as very low on the list.

11  
12 Q. How would you describe yourself, Cardinal?

13 A. I wouldn't get into that game at all. I'm a senior  
14 official in the Roman Curiate.

15  
16 Q. You said that some would see the financial affairs of  
17 the Vatican as very low; I take it, you don't share that  
18 view?

19 A. No, I think it's very important that church money is  
20 used efficiently, that the donations are used for the  
21 running of the church, and for the helping of the poor,  
22 that they're not wasted.

23  
24 Q. Has it been a matter that's been considered by you, or  
25 those to whom you report or with whom you work, to set  
26 aside funds for those who have been abused by clergy  
27 elsewhere in the world in circumstances where the Diocese  
28 in which they were abused no longer have sufficient funds  
29 to compensate them?

30 A. As a preliminary clarification, my authority touches  
31 only the Vatican. Unlike most other Vatican councils or  
32 congregations, that is departments, they have some sort of  
33 authority around the world.

34  
35 We have the Holy Father, Pope Francis, has instituted  
36 a special Commission for these matters, it's fairly young,  
37 but these responsibilities are met by national or local  
38 hierarchies, not by the Vatican.

39  
40 Q. When you say national or local hierarchies, are you  
41 speaking about the Archbishop, however that position is  
42 described, in various jurisdictions; is that right?

43 A. Not exactly. Each Diocese is headed by a Bishop; they  
44 often get together in a region, such as Victoria, New South  
45 Wales, and then there is an Australian Bishops Conference.

46  
47 Q. In the event that a Diocese doesn't have sufficient

1 funds to properly compensate those seeking claims on the  
2 basis that they've been abused by the clergy, where would  
3 those people go if the Diocese didn't have sufficient  
4 funds?  
5 A. Well, I'm not sure we've ever been in that situation  
6 in Australia, I'm not sure of that, but they would go to  
7 the - the Diocese would go to the other Australian Diocese  
8 and religious orders would go to the other religious  
9 orders.

10

11 Q. And the Vatican, as you see it, doesn't have a role?

12 A. No.

13

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

16 A. Yes.

17

18 Q. Was your advice sought before that Commission was  
19 established?

20 A. Yes, it was. I'm a member of what's called the  
21 Council of Cardinals, nine - we have no jurisdiction - or  
22 no jurisdiction but we're a council, informal council of  
23 advisors to Pope Francis.

24

25 Q. Did you give advice?

26 A. I strongly supported the propositions that were  
27 presented to the group by Cardinal O'Malley, who is also a  
28 member of the nine.

29

30 Q. Were those propositions ultimately translated into the  
31 Commission as we see it today?

32 A. I believe so.

33

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

38

39 Have there been any such initiatives proposed to the  
40 Pope?

41 A. I couldn't give book chapter and verse on this, but  
42 certainly they have been active, the Commission, in  
43 different parts of the world, I think particularly speaking  
44 of the church leadership in the Philippines and in India.  
45 I'm not a member, of course, of that Commission.

46

47 Q. When you say "they've been active in different parts

1 of the world", what do you mean?  
2 A. I believe that one of the principal functions of the  
3 group is to ensure that appropriate procedures are put in  
4 place and there's an appropriate sensitivity amongst the  
5 church leadership.  
6  
7 Q. Procedures for the operation of the Commission, or  
8 procedures in relation --  
9 A. No, no, for the operation - I'm sorry.  
10  
11 Q. Procedures for the prevention of sexual abuse by  
12 clergy and religious?  
13 A. Or the prevention and dealing with crimes.  
14  
15 Q. The Commission was said to be provided with adequate  
16 human and material resources. Can you tell us who  
17 determined what was adequate human and material resources  
18 for that purpose?  
19 A. I think they made direct representations to the Holy  
20 Father. I wasn't involved in any sums, but I made it quite  
21 clear at the Council of the Cardinals that whatever they  
22 needed should be made available to them.  
23  
24 Q. So, that was not a matter that you had to make a  
25 decision in respect of the quantum of money to be provided?  
26 A. No, not at all.  
27  
28 Q. I asked you earlier, Cardinal, whether the Commission  
29 had given any advice to the Pope and you spoke in terms of  
30 activity. Can you tell us whether or not there has been  
31 any advice given to the Pope?  
32 A. I'm not quite sure; I will arrange for it to be  
33 tabled. The Commission put out a report on what it has  
34 achieved and what it is doing in November or December  
35 last year. That is available in English and I can arrange  
36 for it to be made available to yourselves.  
37  
38 Q. Presumably, it can be found on an appropriate website,  
39 Cardinal, do you know?  
40 A. I would believe so, I would believe so.  
41  
42 Q. In June last year, Pope Francis approved the  
43 establishment of a special tribunal within the Congregation  
44 of the Doctrine of the Faith to judge Bishops accused of  
45 protecting priests who sexually abused children. Was your  
46 advice sought prior to the establishment of that tribunal?  
47 A. I don't believe so.

1  
2 Q. Was that a matter that the nine Cardinals you referred  
3 to earlier were provided with the opportunity to advise?  
4 A. I'd have to be careful, my mind is not entirely clear,  
5 but I don't think so; I think that was set - I think it was  
6 set up independently.  
7  
8 Q. Independently of the nine Cardinals?  
9 A. Because only one of us - pardon?  
10  
11 Q. Independently of the nine Cardinals?  
12 A. Yes. You see, we have no jurisdiction, no official  
13 place where an informal body of advice to the Holy Father -  
14 and especially for the reform of the Roman Curia; that's  
15 been our almost exclusive concern.  
16  
17 Q. As I understand - I'm sorry, Cardinal, go on.  
18 A. No, it's okay.  
19  
20 Q. As I understand the document which was published which  
21 established the tribunal, it referred to the Council of the  
22 Cardinals agreeing unanimously on proposals and resolving  
23 that they be submitted to the Holy Father.  
24  
25 Now, the Council of Cardinals is the body you've  
26 referred to?  
27 A. It is.  
28  
29 Q. It also refers to the Council of Cardinals having  
30 authorised the provision of sufficient resources for this  
31 purpose, or indicated to the Pope that such a thing should  
32 be done. Do you have a recollection of that?  
33 A. In general terms, yes; only in general terms.  
34  
35 Q. And again --  
36 A. It's completely uncontroversial.  
37  
38 Q. Again, whose role was it to determine the sufficiency  
39 of resources in relation to that tribunal?  
40 A. I presume the tribunal would make recommendations to  
41 the Holy Father and the Secretariat of State.  
42  
43 Q. So, not in relation to your area?  
44 A. No. We don't directly control funds at all.  
45  
46 Q. Are you aware whether any appointments have been made  
47 to that tribunal?

1 A. I think there have been. I'm not completely sure.  
2 I'm not sure how it is functioning or whether it has  
3 started.  
4  
5 Q. So, it may not have --  
6 A. I'm not a canon lawyer.  
7  
8 Q. It may not have commenced, is that what you're saying,  
9 Cardinal?  
10 A. No, it's not exactly what I'm saying, because I'm not  
11 quite sure how far it's gone.  
12  
13 Q. Does that tribunal propose, as far as you know, to  
14 produce public material about its work?  
15 A. I would imagine that it would report, yes, its work.  
16  
17 Q. Cardinal, no doubt you're aware there has been some  
18 publicity recently about the training given to Bishops from  
19 Rome in relation to reporting obligations. Are you  
20 familiar with what I'm saying?  
21 A. Yes, I - there was one talk there given, where the  
22 advice was unfortunate and it was rejected by the  
23 Commission you've been mentioning.  
24  
25 Q. So --  
26 A. The speaker was one part of a series - for example, I  
27 spoke on the finances, he spoke on things psychological in  
28 this area.  
29  
30 Q. His advice, that Bishops should not necessarily  
31 consider themselves bound to report regardless of the civil  
32 laws, was rejected by the Commission; is that what you're  
33 saying?  
34 A. That's correct.  
35  
36 Q. So, what's the position of the Vatican in relation to  
37 reporting obligations?  
38 A. That the law of the land should be followed.  
39  
40 Q. Thank you. As you're aware, Cardinal, child sexual  
41 abuse by clergy has been an issue in the church for  
42 centuries, in that, there have been various rules and  
43 pronouncements in relation to it. You're aware of that?  
44 A. I'm aware that this has been a problem right across  
45 society and unfortunately also in the church for centuries,  
46 as you said.  
47



1 Q. It's also the case, as I'm sure you're aware,  
2 Cardinal, that there has been many inquiries around the  
3 world in relation to child sexual abuse and the  
4 Catholic Church; you're aware that there's been many  
5 inquiries?  
6 A. Are these government inquiries or church inquiries?  
7  
8 Q. Well, there's a combination of both: there's been some  
9 government inquiries, some church or church commissioned  
10 inquiries in areas such as Canada, Chicago, Massachusetts,  
11 Ireland, the Netherlands and the like?  
12 A. Yes. I'm not sure that they're all exclusively just  
13 on the Catholic Church. I'd imagine some of them would be  
14 very appropriately, like the Royal Commission, and touch on  
15 the problem right across - the institutions right across  
16 society.  
17  
18 Q. But you would accept that there has been many  
19 inquiries which have dealt, either in full or in part, with  
20 the Catholic Church?  
21 A. That is correct.  
22  
23 Q. Of those inquiries which have done so, there appears  
24 to be a consistency in their findings in respect of the  
25 response of the Catholic Church to allegations, and that  
26 consistency seems to be in relation to those in more senior  
27 positions not taking the action that a reasonable person  
28 thought should be taken in respect of those allegations.  
29 Now, are you familiar with that?  
30 A. Let me just say this as an initial clarification, and  
31 that is, I'm not here to defend the indefensible. The  
32 church has made enormous mistakes and is working to remedy  
33 those, but the church in many places, certainly in  
34 Australia, has mucked things up, has made - let people  
35 down. I'm not here to defend the indefensible.  
36  
37 Q. No, I wasn't particularly asking you to, Cardinal.  
38 A. Thank you.  
39  
40 Q. The question is in relation to the consistency of  
41 findings of inquiries in many places in the world in  
42 relation to the actions of senior officials in the Catholic  
43 Church. Now, you accept that that is the case, that there  
44 has been a consistency of findings in relation to the  
45 Catholic Church?  
46 A. Unfortunately, that - there's a lot of truth. I would  
47 also say that there are very few countries in the world who

1 have advanced as far as the Catholic Church has in  
2 Australia in putting procedures into place nearly 20 years  
3 ago. I think that's a matter of record.  
4

5 Q. Can you help us, Cardinal, with why you think it is  
6 that the Catholic Church has operated in such a similar way  
7 across many different countries in the world?

8 A. Unfortunately, original sin is alive and well; the  
9 tendency to evil in the Catholic Church too, and sometimes  
10 it's better, sometimes it's worse, but for good or for ill  
11 the church follows the patterns of the societies in which  
12 it lives.

13 Q. So, you wouldn't suggest that it's just a case of a  
14 few bad apples, as it were, within the church?

15 A. I've never suggested that.  
16

17 Q. And you wouldn't think that it's the case of a few  
18 weak or inactive leaders in the church?

19 A. No, unfortunately they weren't necessarily few.  
20

21 Q. Does it suggest to you any structural problems in the  
22 way in which the church operates?

23 A. There are many levels of structures, and we'd have to  
24 be specific. I don't think it calls into question the  
25 divine structure of the church, which goes back to the New  
26 Testament, the role of the Pope and Bishops. I think the  
27 faults overwhelmingly have been more personal faults,  
28 personal failures, rather than structures.  
29

30 Let me remind you that the reforms in 1996/1997  
31 occurred within the old structures.  
32

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

35 A. That is correct.  
36

37 Q. I think, with each of those reforms, there have been  
38 issues in relation to the independence of the operation of  
39 those reforms; you understand that?

40 A. There have been questions, certainly in the material  
41 with which I was associated; I worked very hard to make  
42 sure there was independence of the judgment from the  
43 leadership of the church. Now, once again, these have  
44 proved, have been shown to be imperfect, but that  
45 particular form of independence in, I think both Towards  
46 Healing and the Melbourne Response, the independence in  
47 actually coming to decisions, I believe that was achieved

1 in many - most cases.

2

3 Q. You understand that the Royal Commission has published  
4 a report on redress, Cardinal?

5 A. Yes, I have, I've studied that.

6

7 Q. What's your view of the appropriateness of the  
8 structures recommended for the Catholic Church?

9 A. I would like to see a national system of redress which  
10 could be accessed by the churches and one in which the  
11 culpable parties would contribute to the payment of  
12 whatever the findings were.

13

14 Q. And that system would do away with any questions of  
15 independence, such as those questions which arise in  
16 relation to Towards Healing and the Melbourne Response; is  
17 that right?

18 A. Well, it would clearly show that such payments are not  
19 dependent on the decisions of the Catholic Church. No  
20 matter how fair and independent an agency funded by the  
21 church might be, there's always the danger that it will be  
22 found to be subservient.

23

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

29

30 Q. But in those cases, Cardinal, it's not the case, is  
31 it, that the government agency has been responsible for the  
32 abuse which is the subject of the claim?

33 A. Could you repeat that, please?

34

35 Q. Certainly. But in those cases it's not the case, is  
36 it, that the government agency has been responsible for the  
37 abuse which is the subject of the claim?

38 A. Everyone is under the legislative power of the  
39 government and it's such a situation of independence that I  
40 would like to see for the Catholic Church.

41

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

44 A. I was.

45

46 Q. Where was your schooling?

47 A. At Loreto Convent in Ballarat and at St Patrick's

1 College, in Ballarat also.  
2  
3 Q. Thank you. Without wanting to embarrass you,  
4 Cardinal, it's the case that growing up you excelled at  
5 sport as well as academically?  
6 A. I had some capacity in both areas.  
7  
8 Q. I think you're being modest, Cardinal.  
9 A. Thank you.  
10  
11 Q. Your family was quite well-known in Ballarat; they ran  
12 the local or one of the local hotels?  
13 A. Yes, I wouldn't want to exaggerate just how well known  
14 they were, but they did have, yes, a hotel there.  
15  
16 Q. Can I suggest, Cardinal, that you were identified  
17 early on as a prospective leader of the church?  
18 A. I wouldn't plead guilty to that. Probably my Bishop  
19 gave me educational opportunities because he saw that as a  
20 possibility.  
21  
22 Q. You studied in Rome?  
23 A. I did.  
24  
25 Q. Were there any other priests who you were associated  
26 with during your time in Ballarat who studied in Rome?  
27 A. Yes, quite a number of them. Many of my  
28 contemporaries, unfortunately, did not get ordained or, it  
29 was a turbulent time, or left after ordination; left the  
30 priesthood.  
31  
32 Q. What was the turbulent time you're referring to?  
33 A. This was the 1960s, we had the Vatican Council and you  
34 would remember at the start of the 1960s we had the  
35 invention of the contraceptive pill which has provoked a  
36 social revolution.  
37  
38 Q. And the priests that didn't get ordained, there was  
39 some relationship between that and what you've just  
40 described?  
41 A. Yes, it would vary enormously from person-to-person,  
42 but here in the Roman colleges and seminaries it was a very  
43 interesting time, and it wouldn't be entirely misleading to  
44 say that there was a whiff of a revolutionary spirit about,  
45 but I don't want to overemphasise that. A lot of good  
46 people decided to follow other paths.  
47

1 Q. Paths outside of the church?  
2 A. No, not outside the church, outside the priesthood.  
3 Overwhelmingly they remained within the church.  
4  
5 Q. You also obtained a doctorate from Oxford in church  
6 history; that's right?  
7 A. That is correct.  
8  
9 Q. That would have been an unusual qualification to have  
10 had among fellow priests in Ballarat?  
11 A. Yes. I was one of the first, perhaps the first,  
12 Catholic priest to take a DPhil in the theology faculty  
13 since the reformation.  
14  
15 Q. That qualification, I take it, was paid for by the  
16 church insofar as it cost money?  
17 A. Yes, and in those far off days the British Government  
18 paid the university fees for all students, including  
19 overseas students. I've always been very grateful to the  
20 United Kingdom for that.  
21  
22 Q. So the church wasn't out of pocket?  
23 A. Oh, they were, yes, they had to pay board for me.  
24  
25 Q. You returned to Ballarat after studying and you had  
26 various positions as assistant priest, which I'll take you  
27 to later, but it seems that education and the education of  
28 children became an area of particular interest to you?  
29 A. The Bishop asked me to take a role in that area and I  
30 did so happily.  
31  
32 Q. You ultimately obtained a masters in education, I  
33 think in the early 1980s?  
34 A. I did.  
35  
36 Q. The first position, as I understand it, you had in  
37 relation to education was to be appointed as Episcopal  
38 Vicar for Education?  
39 A. I'm not sure whether it was actually the first, but it  
40 was certainly a very early such appointment.  
41  
42 Q. That was, as I understand it, in 1973 and continued  
43 until 1984; does that sound right to you?  
44 A. That is correct.  
45  
46 Q. As I understand what you've said in the past about  
47 that position, it was a significant source of advice to the

1 Bishop on education and supports and oversaw those working  
2 in the Catholic Education; now, that's as you saw the role?  
3 A. The way I saw the role, the way I will try to describe  
4 it is the way it was, and that is, I was the Bishop's  
5 representative; that meant that I chaired the Ballarat  
6 Diocesan Education Commission, I sometimes represented the  
7 Bishop at openings and things like that, celebrations like  
8 that, and actually most of my time was spent - I was also  
9 chairman of the board of a small Teachers College called  
10 the Sacred Heart Teachers College and most of my time  
11 educationally was spent trying to ensure its survival. And  
12 it did survive as the Aquinas Campus now of the Australian  
13 Catholic University.

14  
15 Q. You also, as I understand it, described the role as  
16 the essential link between the Bishop, priests, parents,  
17 teachers and students; now, that's how you saw the role,  
18 isn't it?

19 A. I would be very interested to see where I said that; I  
20 think it somewhat overstates my role, it was not the  
21 director of education.

22  
23 Q. Perhaps if I can show you a document, Cardinal. I  
24 hope that those with you have a copy of this document, it's  
25 a note under your hand, Cardinal, dated 20 September 1984,  
26 from you to Bishop Mulkearns. This document has only very  
27 recently come to light, so I apologise for it not having  
28 been provided earlier.

29  
30 Those with you, Cardinal, have they provided you with  
31 a copy of that document?

32 A. I don't think so.

33  
34 Q. You don't have access to a screen with documents, do  
35 you, Cardinal?

36 A. I believe not.

37  
38 Q. I'm sure it will come to you shortly. While that's  
39 waiting, perhaps if I can read the first page to you. It  
40 begins:

41  
42 My Lord

43  
44 Please find enclosed some thoughts on the  
45 role of the Episcopal Vicar For Education.

46  
47 Then, with your best wishes. Over the page, there's

1 your thoughts as to roles and functions. Has it been  
2 provided to you yet, Cardinal?

3 A. No, counsel.  
4

5 Q. We'll do our best to get one to you as soon as we can.  
6 That document, in the second paragraph under, "Role", and  
7 I'll read it for you:  
8

9 The position is normally held by a diocesan  
10 priest, but could be filled by a religious,  
11 man or woman. Through this  
12 clerical/religious presence education is  
13 seen as one vital part of the church's  
14 apostolate ...  
15

16 THE CHAIR: He has the document.  
17

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

20 A. I do.  
21

22 Q. Do you see the last phrase is that:  
23

24 ... the essential link between Bishop,  
25 priests, parents, teachers and students is  
26 also emphasised.  
27

28 A. I think the emphasis there is on the religious  
29 presence, of course. Yes, I do see what is there. Could I  
30 just say, many Diocese do not have Episcopal Vicars for  
31 Education, and I was keen for the role to continue.  
32

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

35 A. That's correct.  
36

37 MS FURNESS: Your Honour, I tender that document.  
38

39 THE CHAIR: I'll mark it as exhibit 28-147.  
40

41 EXHIBIT #28-147 NOTE FROM CARDINAL PELL TO BISHOP MULKEARNS  
42 DATED 20/09/1984  
43

44 THE WITNESS: Before you move on, can I draw your  
45 attention to some of the elements in that document, please?  
46

47 MS FURNESS: Certainly.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
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A. The vicar is the Bishop's representative in all the areas of education, a significant source of advice to the Bishop, on education supports and oversees those (inaudible) working. This is not an executive role although the vicar might have other executive positions.

Then there's the paragraph you mentioned:

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

Mentions the role as the chair:

To encourage cooperation and dialogue ...

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

To encourage the provision of chaplaincy services.

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

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

A. Well, I would like to read:

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

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

Q. In your role as Episcopal Vicar, did you from time to time visit schools that were Diocesan schools?

A. Very rarely. Perhaps more the opening, the blessing of a wing or an extension. I had no regular such role



1 because I was a full-time academic in the Institute of  
2 Catholic Education.

3

4 Q. And you were a full-time academic from 1974-1984, I  
5 think; is that right?

6 A. I think that's correct.

7

8 Q. In the first year you were Episcopal Vicar, you held  
9 that position at the same time as having the position of  
10 assistant priest; is that right?

11 A. That's correct, and I was chaplain, school chaplain,  
12 St Martins in the Pines, and I also lectured part-time at  
13 the then Sacred Heart Teachers College.

14

15 Q. Thank you. In your role as Episcopal Vicar for  
16 Education, did any teacher, principal, parent or school  
17 teacher or child, approach you about problems at any of  
18 their schools?

19 A. Well, that's difficult; I mean, there are many  
20 problems that arise in schools which would be taken up by  
21 the Education Office or by the council - the Diocesan  
22 Council for Education. So, yes, people would speak to me  
23 sometimes about problems.

24

25 Q. The problems that they spoke to you about, were they  
26 problems of difficulties with teachers and principals in  
27 relation to being overly affectionate or in some way  
28 touching them?

29 A. Well, it's a long time ago, but I can't remember such  
30 complaints, and normally they would have been addressed to  
31 the Education Office, not to the vicar.

32

33 Q. Well, that may be the case that normally they would be  
34 addressed, but from time to time they came to your  
35 attention, either before or after the Catholic Education  
36 Office?

37 A. Well, I can't remember any such examples, but my  
38 memory might be playing me false.

39

40 Q. Why might your memory be playing you false?

41 A. Because I don't have perfect recall.

42

43 Q. So it may have happened but you can't remember now; is  
44 that the effect of what you're saying?

45 A. No, I think you're putting words into my mouth. I  
46 don't remember any such thing happening and, therefore, I  
47 don't believe it did, but my memory is sometimes fallible.

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Q. Cardinal, I was just repeating what you said in different language; what you said was, "I can't remember any such examples but my memory may be playing me false". That's the answer you give?

A. That is the answer, no more and no less.

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

A. I was.

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

A. About what matters?

Q. About complaints.

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

Q. You were, and the campus, were primarily concerned with educating people to be teachers?

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

Q. As part of preparing primary teachers, do you recall whether there was any emphasis on protective behaviours for children?

A. I can't remember what there was or to what extent there was.

Q. Do you recall that that was a developing issue in the decade that you were in that role?

A. No, it wasn't a particularly - a topic which was discussed enormously at all. That happened - a significant advance in understanding and level of discussion took place from the middle 1980s onwards; the late 1980s in particular.

Q. That "level of discussion", are you referring to the

1 Catholic Church generally or the educational components of  
2 it?

3 A. I think the Catholic Church generally as well as the  
4 educational component.

5  
6 Q. Cardinal, over the years you've made a number of  
7 comments, or at least in some cases you've been reported as  
8 having made a number of comments, about your time in the  
9 Diocese of Ballarat. If I can suggest a number of views  
10 that you've held, and by all means tell me if they don't  
11 accurately represent your views.

12  
13 You've said that the general attitude of the church to  
14 disclosures of child sexual abuse before that period of  
15 time you've described, that is, the late 1980s, was  
16 generally to not believe the child; you accept that?

17 A. I think that - no, I - that, I would now say that that  
18 is an overstatement, but it certainly was much, much more  
19 difficult for the child to be believed then.

20  
21 Q. Those in the --

22 A. With the predisposition not to believe.

23  
24 Q. And the predisposition was also to be dismissive of  
25 those complaints?

26 A. If they were not presented clearly, but it would vary  
27 from person-to-person, and there was never any suggestion  
28 that these - officially at any rate - that such accusations  
29 should be rejected out of hand.

30  
31 Q. When you say "officially", what do you mean?

32 A. That there were no such statements by the Catholic  
33 Education Office or the Bishops or by official agencies.

34  
35 Q. But unofficially it's the case, isn't it, that most  
36 complaints in the period of time we're talking about tended  
37 to be dismissed; do you accept that?

38 A. I don't have the statistics on that, but too many of  
39 them certainly were dismissed and sometimes they were  
40 dismissed in absolutely scandalous circumstances.

41  
42 Q. When you say "absolutely scandalous circumstances",  
43 can you provide an example of what you're referring to?

44 A. Well, they were very, very plausible allegations made  
45 by responsible people that were not followed up  
46 sufficiently.

47

1 Q. By "responsible people", are you meaning adults?  
2 A. By officials, I mean adult officials.  
3  
4 Q. I'm sorry, I misunderstood you. You said, "There were  
5 very plausible allegations made by responsible people that  
6 were not followed up sufficiently". I understood you to  
7 mean that the complaints were made by responsible people,  
8 not to responsible people; am I wrong?  
9 A. That's my hypothesis, yes, that's what I was talking  
10 about, these were reasonable complaints which were dealt  
11 with very poorly.  
12  
13 Q. In addition, there was a tendency to seek to protect  
14 the reputation of the church and its assets in the response  
15 to these allegations?  
16 A. At that stage, the instinct was more to protect the  
17 institution, the community of the church from shame. I'm  
18 not sure at that stage there was too much concern about  
19 protecting assets.  
20  
21 Q. That became an issue later on?  
22 A. It did.  
23  
24 Q. The tendency also at that time was not to report to  
25 civil authorities?  
26 A. I think that is the case, although there were a number  
27 of such cases reported to the police, but the general  
28 community attitudes were different, within the police,  
29 within the government service, within the Catholic Church,  
30 were different from what they are now.  
31  
32 Q. So, is it the case that there was a tendency within  
33 the church not to report allegations to the police at that  
34 time?  
35 A. That was, I think, the general practice. That is  
36 different from saying that people were prevented or  
37 impeded, but they certainly were rarely encouraged.  
38  
39 Q. There was also a belief among some at that time that  
40 offenders could be treated?  
41 A. Yes, that's certainly true.  
42  
43 Q. And that the sexual abuse of children was largely seen  
44 as a moral sin or failing, rather than a crime?  
45 A. Well, that's a different thought from your previous  
46 thought. It certainly in every age remains as a moral  
47 failure and as a sin, it is also a crime, and one element

1 that contributed to the catastrophic treatment, it was well  
2 intended, but there was an overestimate of what could be  
3 done through psychological and psychiatric treatment.  
4

5 Q. You were aware at the time that from time to time  
6 priests who were believed by the Bishop to have been  
7 offending were referred off for treatment?

8 A. You would have to be specific about who and when,  
9 because people could go off for treatment for a whole  
10 variety of purposes and sometimes the most important reason  
11 was not mentioned, and in many cases not reasonably  
12 suspected.  
13

14 Q. Well, it's the case, isn't it, that you were aware  
15 during the 1970s and early 1980s, that the Bishop was  
16 sending Ridsdale off for treatment for sexual offending  
17 against children?

18 A. No, that's certainly not correct.  
19

20 Q. Was there any other priest that you were aware of in  
21 the 1970s and early 1980s who were sent off for treatment  
22 by Bishop Mulkearns for believed or perceived sexual  
23 offending?

24 A. I wasn't aware of Mulkearns sending anyone off for  
25 sexual offending.  
26

27 Q. Sexual offending of any type?

28 A. Well, an offence is, I presume, something against the  
29 law. If a priest is engaging in sexual behaviour, either  
30 heterosexually or homosexually, that's incompatible with  
31 his continuing as a priest, and it's possible that people  
32 were sent off - but once again, I'd have to hear who or  
33 what, say, to reply specifically. If the person is  
34 repentant and the repentance is very real, the Bishop  
35 would - if you judge that to be real, there was a real  
36 purpose of amendment, that they would get spiritual  
37 counselling and psychological help to ascertain, to help  
38 them continue to do the right thing and to ascertain  
39 whether that was likely.  
40

41 THE CHAIR: Q. Cardinal, all that counsel is asking you  
42 for are the names of any priest you can remember who were  
43 sent off for treatment by Bishop Mulkearns, that's all.

44 You are just being asked for any name you can remember.

45 A. It was long after I'd gone from the Diocese, but  
46 Ridsdale was sent off for such treatment to the  
47 United States.

1  
2 MS FURNESS: Q. Is he the only priest you can recall  
3 being sent off for treatment by Bishop Mulkearns for  
4 matters of a sexual nature?  
5 A. I think that's the case.  
6  
7 Q. What about Paul David Ryan?  
8 A. I'm not sure that Ryan was - I'm not well versed on  
9 Ryan. I didn't have much to do with his story. He did do  
10 studies in the United States, I believe, but I don't think  
11 they had anything to do with therapy.  
12  
13 Q. Is the answer to my question, that you don't know of  
14 Paul David Ryan being sent off for treatment by  
15 Bishop Mulkearns for matters of a sexual nature?  
16 A. I don't have any clear such recollection. I certainly  
17 never heard that he was being helped because he was a  
18 paedophile. He might have had other --  
19  
20 Q. What about - I'm sorry, Cardinal, I interrupted you.  
21 "He might have had other"?  
22 A. He might have had other problems which are problems  
23 for a Catholic priest, but I'm not quite sure what years  
24 we're talking about here.  
25  
26 Q. We're talking about the period that you were at  
27 Ballarat, 1971 until about 1984.  
28 A. I was seeking to find out the years in which Ryan did  
29 his studies or was ordained or prepared.  
30  
31 Q. Ryan was --  
32 A. Within that 1971-1984.  
33  
34 Q. Ryan was ordained in about 1976 and he was sent off to  
35 Washington in about 1977. I'm sure those were --  
36 A. Thank you for that, thank you.  
37  
38 Q. You referred to him "might have had other problems  
39 which are problems for a Catholic priest". Now, consensual  
40 adult sexual relations would fall within that category,  
41 wouldn't they?  
42 A. Yes.  
43  
44 Q. Whether it be with a man or a woman?  
45 A. That's correct.  
46  
47 Q. Do you recall being advised or becoming aware of any

1 information about Paul David Ryan being sent off for  
2 treatment in about 1977 for that sort of sexual behaviour?  
3 A. I don't have any clear such recollection. Could I  
4 just say that I was never officially asked, but I was -  
5 Ryan had an unusual style, I was never particularly  
6 supportive of his vocation.

7  
8 Q. Why not?

9 A. Because of that style, but we can't - I didn't have to  
10 make the decision, I just tell you my set of attitudes, and  
11 of course it would have been wrong for me to conclude  
12 anything from his attitudes about his activities.

13  
14 THE CHAIR: Q. Cardinal, you answered counsel's question  
15 by saying that you don't have any clear recollection of  
16 whether Ryan was sent for treatment for his sexual  
17 behaviour. What is your recollection?

18 A. What I had hoped to say but I could make it a little  
19 more specific, I have no clear recollection of my knowing  
20 that he was sent off for such treatment at that time.

21  
22 Q. But what is your recollection? What do you recall?

23 A. I can't clearly recall him being sent off for that  
24 purpose at all.

25  
26 Q. Do you mean, you can --

27 A. He very well might have been.

28  
29 Q. I see, and your recollection is that he might have  
30 been?

31 A. Well, you seem to be inferring that, and I don't want  
32 to rule it out because my level of recall is not sufficient  
33 to rule it out.

34  
35 THE CHAIR: Very well.

36  
37 MS FURNESS: Q. Continuing with comments that you have  
38 made in respect of your time at Ballarat, I think that you  
39 have been in the past critical of Bishop Mulkearns in  
40 relation to destroying documents; that's right?

41 A. That's unacceptable. The destruction of documents is  
42 unacceptable.

43  
44 Q. You discovered that he had done so in relatively  
45 recent times?

46 A. I think it was in preparing for the Victorian  
47 Parliamentary Commission.

1  
2 Q. Are you critical for any other aspect of  
3 Bishop Mulkearns' conduct?  
4 A. I have just re-read the file of Ridsdale, the priest,  
5 ex-priest, and the way he was dealt with was a catastrophe,  
6 a catastrophe for the victims and a catastrophe for the  
7 church. If effective action had been taken earlier, an  
8 enormous amount of suffering would have been avoided.  
9  
10 Q. What was it about the way he dealt with Ridsdale that  
11 was catastrophic?  
12 A. He shifted - gave him chance after chance after  
13 chance, shifted him around, and initially at least trusted  
14 excessively in the possible benefits of psychological help.  
15 But even there, we now know that Ridsdale, I think in at  
16 least one case, was being treated for anxiety, not to help  
17 him with his paedophilia.  
18  
19 Q. He was anxious because he was going to be charged in  
20 relation to his paedophilia, wasn't he?  
21 A. So the records show.  
22  
23 Q. You know that there were others, that is, others in  
24 the church in the Diocese, at the time that Ridsdale was,  
25 as you say, being shifted around, who knew about his  
26 offending; you know that now, don't you?  
27 A. I now know that. I do.  
28  
29 Q. Did you know it at the time?  
30 A. I did not know it at the time.  
31  
32 Q. You didn't know of anyone else in the hierarchy of the  
33 church who knew about Ridsdale's offending in the time that  
34 you were there, that is, 1971-1984?  
35 A. I did not know that Mulkearns knew, let alone anybody  
36 else.  
37  
38 Q. We'll come back to the detail of that. Leaving aside  
39 Ridsdale, are there any other criticisms that you now have  
40 of the way in which Bishop Mulkearns conducted himself?  
41 A. I think there was something of a pattern similar to  
42 what he used on Ridsdale with some others, and I'm just  
43 trying to think - well, Ryan would be one such example.  
44  
45 Q. Any others?  
46 A. I can't - I couldn't give book, chapter and verse  
47 about what Mulkearns knew and did not act upon at a



1 particular time. I'm aware of the list of offenders.  
2  
3 Q. Would you consider it appropriate for the judicial  
4 tribunal to consider the case of Bishop Mulkearns?  
5 A. Yes, there would certainly be a prima facie case, yes.  
6  
7 Q. Are you in a position to put forward a name to that  
8 tribunal?  
9 A. As a Vatican official, that probably would be less  
10 than appropriate; that should come from the Australian - or  
11 present Australian authorities if they choose to do so.  
12  
13 Q. Would you be minded to speak to those present  
14 Australian authorities to tell them your view?  
15 A. If I was asked for my view, I would give it, as I have  
16 to you.  
17  
18 Q. Cardinal, turning to the other position that you held,  
19 and that was - this is before you went to Melbourne - the  
20 Corpus Christi position; you were, I think, directory of  
21 the seminary?  
22 A. It's called rector; I was, yes, the leader, the head,  
23 director of the Corpus Christi Seminary.  
24  
25 Q. That was a regional seminary, wasn't it, it took  
26 people from a number of different areas?  
27 A. From Victoria and Tasmania.  
28  
29 Q. Where was it based?  
30 A. I'm having a senior moment - Clayton at that stage.  
31  
32 Q. You'd be aware that the Royal Commission is interested  
33 in matters of formation; you understand that?  
34 A. I hope so.  
35  
36 Q. And it may well have been that you've been asked  
37 questions about this in the past, Cardinal, but what was  
38 your view at the time you were rector of the way in which  
39 the formation processes operated in your seminary?  
40 A. In terms of dealing with psychosexual development,  
41 they represented an enormous advance on the almost total  
42 silence on these matters in my education. On the staff  
43 there we had a man who was a graduate of an institute here  
44 in Rome called The Ruler Institute which was developed  
45 specially to train formators, give them understanding, the  
46 understandings of the Christian ideas of morality, the  
47 psychology and sociology.

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Q. So that training was provided under you, as rector, for those seminarians who went through between 1985-1987?

A. That was certainly true.

Q. In more recent times, particularly when you were Archbishop of both Melbourne and Sydney, have you considered ways to improve the formation processes from the 1980s?

A. I was consistently doing that as Archbishop, and I was very pleased, when I was Archbishop of Sydney in our seminary, to be able to appoint an American nun, a very wise woman who had a PhD in psychology from the United States and has proved to be very effective in helping the seminarians. Many young people in our society today are bruised by their upbringing, this brings suffering, tensions, and a qualified person such as this Sister and outside experts to whom they can be referred has proved to be an enormous help.

Q. Is there any national approach in Australia to matters of formation that you're aware of?

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

Q. Cardinal, you say that's a 1990 document. There's been no advances in thinking about formation in the last 26 years that have been captured in more recent documents?

A. I'm trying to think. There would be a succession of teachings from the congregation that looks after the - I think it's now the Congregation for the Clergy, they're talking about these matters - but the essential template still remains that 1990 document and I'm quite happy about that.

Q. You're quite happy --

A. There's room within that for refinements and improvements.

Q. Does the Bishops Conference, the Australian Catholic Bishops Conference, have a role to play in determining or

1 disseminating guidelines about formation?  
2 A. Yes, I think they do. I think there is; it comes  
3 under the purview of one of the episcopal sub-committees.  
4  
5 Q. Cardinal, can I come back to your work as a priest in  
6 the Diocese. I think, from July 1971 to January 1973, you  
7 were assistant priest at Swan Hill?  
8 A. Yes.  
9  
10 Q. And that was your first appointment after ordination  
11 with some study in between?  
12 A. That is correct.  
13  
14 Q. From part of that time, I think from July 1971 to  
15 1972, you lived with Father Melican in Swan Hill?  
16 A. I did.  
17  
18 Q. Was he an assistant priest or was he the parish  
19 priest?  
20 A. No, he was the parish priest.  
21  
22 Q. You lived in a presbytery with him?  
23 A. Yes, I did.  
24  
25 Q. And there was just the two of you?  
26 A. No, I think there was another - there was another  
27 assistant also.  
28  
29 Q. Do you remember who that was?  
30 A. I think it was Peter Brennan.  
31  
32 Q. You obviously shared meals and the like in the  
33 presbytery?  
34 A. I did. Father Melican was a great help to me, a very  
35 good parish priest, very congenial company.  
36  
37 Q. I take it, given it was your first appointment, you  
38 looked to Father Melican for advice and assistance about  
39 how to operate in the parish?  
40 A. Yes, I think that's true.  
41  
42 Q. You would talk about various parishioners and the like  
43 to understand their problems and what you could do to help?  
44 A. Well, in a general way, we would, respecting the  
45 confidentiality and the rights of the individuals  
46 concerned.  
47

1 Q. I think you were subsequently a Consultor with Father  
2 Melican too, from about 1977-1982; does that sound right?  
3 A. That does.  
4  
5 Q. Prior to Father Melican being the parish priest at  
6 Swan Hill, he was the assistant priest at Mildura from  
7 1968-1971; do you remember that?  
8 A. I don't remember that, but I don't doubt it.  
9  
10 Q. Mildura was one parish removed from Swan Hill?  
11 A. It's 200 kilometres away.  
12  
13 Q. But they're parishes which adjoin each other?  
14 A. No, I don't think they do. I think there's at least  
15 Robinvale Parish in between, at least.  
16  
17 Q. Thank you. Father Day was the parish priest at  
18 Mildura from 1956 till January 1972; you remember that?  
19 A. He was. Well, I wasn't there, but I'm aware of that.  
20  
21 Q. And Father Melican was assistant priest to him for  
22 some of that time?  
23 A. Yes, you've told me that and I hadn't recalled that.  
24  
25 Q. When you were in Swan Hill, did you know a Father  
26 Peter Taffe, who was the assistant priest at Mildura?  
27 A. Yes.  
28  
29 Q. You knew him?  
30 A. I did, yes.  
31  
32 Q. Was it the case that from time to time priests in the  
33 same general area socialised together?  
34 A. That is correct.  
35  
36 Q. Do you remember a Father Baldock?  
37 A. I do, Gerry Baldock.  
38  
39 Q. And you remember him from that time?  
40 A. I don't know whether he was in that part of the  
41 Diocese in that time; he might have been. I don't remember  
42 that.  
43  
44 Q. He may have been working in the vicinity of the  
45 Mildura area; does that help you remember?  
46 A. Yes, that may be true.  
47

1 Q. Dan Torpy, Father Dan Torpy, did you know him?  
2 A. Yes, I certainly - he was the gentleman I mentioned as  
3 being on the seminary staff with me, he was some years  
4 behind me in the seminary and in Rome.  
5  
6 Q. He, I think, was an assistant priest at Mildura around  
7 this time; does that fit with your recollection?  
8 A. I didn't have any such recollection, but I don't doubt  
9 it.  
10  
11 Q. In Swan Hill, did you have anything to do with the  
12 schools that operated in the Mildura area?  
13 A. No.  
14  
15 Q. There was a St Joseph's College; does that ring a  
16 bell?  
17 A. In Mildura?  
18  
19 Q. Yes?  
20 A. Yes, I've heard of that.  
21  
22 Q. And a Sacred Heart College, you would have heard of  
23 that as well, I take it?  
24 A. Yes, I wasn't aware there was - I presume it's a boys'  
25 and a girls' school, I might have been tempted to think  
26 there was one.  
27  
28 Q. When did you first encounter Monsignor John Day?  
29 A. I'm battling to remember whether I've ever encountered  
30 him. If I did so, it was very rarely; if you mean by  
31 "encounter", that I met him.  
32  
33 Q. Did you do anything else with him other than meet him  
34 that you can recall?  
35 A. Not that I can recall.  
36  
37 Q. You did meet him, but rarely; is that your answer?  
38 A. I would certainly agree that it was rarely, and I  
39 can't give you a time and a place where I did meet him.  
40  
41 Q. When did you first hear about Monsignor Day - rumour,  
42 gossip or innuendo or complaints - about his sexual  
43 behaviour with children?  
44 A. Well, I only came home to Australia, I think after  
45 Easter in 1971, and I was aware of the publicity around  
46 Monsignor Day, I believe that was 1972.  
47

1 Q. Between mid-1971 when you came back and you were in  
2 Swan Hill and 1972, did you hear any rumour, gossip,  
3 innuendo or the like about him?  
4 A. Yes, there could have - I probably heard some  
5 discussion and gossip.  
6  
7 Q. Can you help us now with the subject matter of that  
8 discussion and gossip?  
9 A. No, I can't, except to say he was accused of some sort  
10 of paedophilia activity. I must say, in those days, if a  
11 priest denied such activity, I was very strongly inclined  
12 to accept the denial.  
13  
14 Q. So, is it the case between mid-1971, when you took up  
15 your position in Swan Hill, and 1972, you heard gossip in  
16 relation to him and paedophile activity?  
17 A. This is over 40 years ago, I have had almost no close  
18 connection with Day; I can't remember exactly what I heard  
19 when.  
20  
21 Q. You said, when I asked you to help us with the subject  
22 matter of that discussion and gossip, that he was accused  
23 of some sort of paedophilia activity; so you clearly have a  
24 recollection of that?  
25 A. Yes, that was the gossip topic.  
26  
27 Q. And that, you were strongly inclined to accept his  
28 denial, and I take it that you heard of his denial?  
29 A. That is correct.  
30  
31 Q. I appreciate the period of time that's passed,  
32 Cardinal, but it's quite a remarkable thing to have heard  
33 about a fellow priest in 1971, isn't it?  
34 A. That was a great scandal.  
35  
36 Q. And that's partly why you have a recollection of it,  
37 because it was a great scandal?  
38 A. That is correct.  
39  
40 Q. The scandal you're referring to, I take it, occurred  
41 after you first heard gossip?  
42 A. Yes, certainly. I wasn't around.  
43  
44 Q. Well, you were around --  
45 A. I wasn't in Australia.  
46  
47 Q. You were in Australia - sorry, Cardinal, I didn't mean

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

1 Melbourne, but I remember seeing some such article, and I  
2 can't recall whether I heard about this controversy, these  
3 incidents, before or after that article.  
4  
5 Q. But there was clearly gossip among those in the  
6 priesthood and those in the community about Day either  
7 before or after that article?  
8 A. There was discussion in the Catholic community and  
9 more widely around Mildura, that's for sure.  
10  
11 MR DUGGAN: Your Honour, so there's no confusion, if the  
12 witness can be shown the article that is being referred to?  
13 It is in the Day tender bundle.  
14  
15 MS FURNESS: I'll come to the article.  
16  
17 Q. Can I first show you what's tab 5 in the Day bundle.  
18 It's the statements bundle, tab 5. The document on the  
19 screen is from the tender bundle rather than the statement  
20 bundle.  
21  
22 Do you have it now, Cardinal?  
23 A. No, I have no documents and I have no recollection of  
24 ever seeing such a document.  
25  
26 Q. Well, it's a statement I want to take you to,  
27 Cardinal.  
28  
29 MS FURNESS: Your Honour, I note the time. It might be  
30 convenient and perhaps those assisting the Cardinal can  
31 find the statement in the meantime.  
32  
33 THE CHAIR: Very well, we'll take the short adjournment.  
34  
35 SHORT ADJOURNMENT  
36  
37 THE CHAIR: Yes, Ms Furness.  
38  
39 MS FURNESS: Thank you, Your Honour.  
40  
41 Q. Cardinal, do you have Mr Baldock's or Father Baldock's  
42 statement in front of you? Can you hear me, Cardinal?  
43 A. Good morning.  
44  
45 Q. You can hear me?  
46 A. Thank you. Yes, I can.  
47



1 Q. Have you Gerald Baldock's statement in front of you?

2 A. I do.

3

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

7 A. Yes.

8

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

11 A. Yes.

12

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

17 A. I do.

18

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

25

26 Stopping there, I think you said that you knew Father  
27 Baldock when you were in Swan Hill?

28 A. Yes, but not just in Swan Hill; I would have - not  
29 quite sure when I first met him, but I was aware of  
30 him/knew him, I think, when he was a seminarian.

31

32 Q. Did he, at any time of your acquaintance with him,  
33 tell you about what is set out in paragraph 9?

34 A. I can't remember him ever doing so.

35

36 Q. Did anyone else, to your recollection, tell you  
37 anything similar about Monsignor Day, that is, the love for  
38 young boys and taking them on trips?

39 A. Are you mentioning any particular period or at any  
40 stage?

41

42 Q. At any stage?

43 A. I hadn't heard of the trips mentioned, I don't recall  
44 that.

45

46 Q. But you'd heard the love for young boys?

47 A. Well, I was aware of what was in the papers in 1972

1 and other general gossip but, more specifically, I can't  
2 give any details.

3  
4 Q. Going down to paragraph 12, he then talks about the  
5 period of the summer of 1970 or 1971, that a teacher, Paul  
6 David Ryan, said that Monsignor Day had been involved in  
7 paedophilia with altar boys. You see that there?

8 A. I do.

9  
10 Q. Did you hear that firstly during the time you were in  
11 Swan Hill?

12 A. Yes, I would just remind you, I was overseas from  
13 1963-1971 and never returned in that time, so the first I  
14 heard of it was when I came back to Australia and I think  
15 in Swan Hill.

16  
17 Q. When I refer to "the time you were in Swan Hill", I'm  
18 referring to July 1971 until you left in, I think, 1973 or  
19 late 1972; you understand that?

20 A. I do.

21  
22 Q. If I can then ask you again, in relation to  
23 paragraph 12, did you hear that during the time you were in  
24 Swan Hill?

25 A. That would be my - I can't - the references to Ryan, I  
26 was unaware of, but the general implication was - I did  
27 hear that, I think, in 1972.

28  
29 Q. Going back to paragraph 9, you see that Father Baldock  
30 talks about having heard the information from parishioners.  
31 Do you see that on the third-last line?

32 A. I do.

33  
34 Q. Had you heard, while you were in Swan Hill,  
35 information similar to that in paragraph 9 from  
36 parishioners?

37 A. I don't recall it coming from parishioners.

38  
39 Q. You recall it coming from gossiping with other  
40 priests?

41 A. Well, discussing church life with other priests.

42  
43 Q. When discussing church life, inevitably that would  
44 involve discussing other priests and their work in the  
45 parish?

46 A. Well, you might be discussing their work in the  
47 parish, you might be discussing their personality, their

1 style, could be discussing a whole variety of things.  
2  
3 Q. Including, in this case, the sexual proclivities of  
4 Monsignor Day.  
5 A. I very rarely indulged in any such discussions. The  
6 points were made to me, I would listen and say - but there  
7 wasn't much discussion certainly in our presbytery or in  
8 any presbytery in which I lived on these topics.  
9  
10 Q. But there clearly was in relation to Day; you've given  
11 evidence to that effect already, Cardinal?  
12 A. I've given evidence that we were aware of the problem,  
13 that we talked about it, but it was not gossiped about  
14 extensively.  
15  
16 Q. You talked about it; that's right, you talked about  
17 it?  
18 A. I've said so.  
19  
20 Q. When you say "it was not gossiped about extensively",  
21 you're making a distinction between talking about it and  
22 not talking about it extensively; is that how we're to  
23 understand that answer?  
24 A. That is correct.  
25  
26 Q. Thank you. Can I ask you to turn in that same  
27 bundle in front of you to tab 3.  
28 A. I go from 31 to 64 in my bundle.  
29  
30 Q. Tab 3 should be a statement of John Edward Raymond  
31 Howden. Do you have that?  
32 A. No, I do not.  
33  
34 Q. Perhaps those with you can help you.  
35 A. Yes, I think it's coming.  
36  
37 Q. It may be tab 42 in your bundle, I'm told. Do you  
38 have that now or is it still coming?  
39 A. It's just arrived.  
40  
41 Q. John Howden took up a teaching position at St Joseph's  
42 College, Mildura, in 1969; do you see that in paragraph 3?  
43 A. Yes.  
44  
45 Q. If you move down to paragraph 5, do you see Mr Howden  
46 saying that in 1970 he attended the Mildura Workingman's  
47 Club for Christmas drinks, when he was confronted by one of

1 the people who was with him, and that person said to him:

2

3

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

5

6

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

9

10 Q. Just stopping there, did you know Mr Howden?

11 A. I don't think so. I knew a Bowden, I don't think I  
12 knew a Howden.

13

14 Q. Did you know a Jack Doherty?

15 A. No.

16

17 Q. This happened about six months before you arrived at  
18 Swan Hill, but did it come to your attention, when you  
19 arrived at Swan Hill, that those in the community were of  
20 the view that Monsignor Day had been sexually abusing  
21 children?

22

23 A. Well, I'd remind you that Mildura is about  
24 200 kilometres away. I was not aware of any general - such  
25 general discussions in the Swan Hill community. I can't  
26 remember any lay person mentioning it to me, but they might  
27 have.

27

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

29 A. Yes.

30

31 Q. Turning over to --

32

33 A. The discussion - especially discussion of the  
34 newspaper after - of the newspaper article especially.

34

35 Q. But I think you've also indicated before the newspaper  
36 article as well?

37

38 A. Not clearly and not definitively but as a possibility.

38

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

41

42 Just over to paragraph 9, this is in August 1971, so  
43 you were in Swan Hill at this time. You can see that  
44 Mr Howden went to see Bishop Mulkearns. He must have been  
45 just recently in the position of Bishop at that time; isn't  
46 that right?

47

A. Yes, some months.

1  
2 Q. And then, to paragraph 10, he refers to the mother of  
3 a female student coming to see him at college and telling  
4 him that Monsignor Day had been harassing her daughter and  
5 her daughter's friends, and then goes on to say that,  
6 during a drive with Monsignor Day, he would sit the  
7 daughter, or both of them, on his knee and allow them to  
8 drive the car while he molested them.  
9 A. I see that.  
10  
11 Q. Is that something that came to your attention, that  
12 that was a method he used to molest children?  
13 A. No, I have no such recollection.  
14  
15 Q. Turning down to paragraph 13, do you see there's  
16 reference there to a "Sister Pancratius"?  
17 A. I don't think I know Sister Pancratius or I don't  
18 think I knew her.  
19  
20 Q. She was the principal at the school at the time; that  
21 doesn't help?  
22 A. No.  
23  
24 Q. The statement then says that:  
25  
26 Sister Pancratius told us [that is  
27 Mr Howden and Mr Ryan, who was a police  
28 officer] that she knew what Monsignor Day  
29 had been up to but she had a dilemma about  
30 her vows as a nun.  
31  
32 Just stopping there. This is in 1971 or so, can you  
33 help us with what a nun's vows could have been to have an  
34 effect on speaking about Monsignor Day?  
35 A. No, her vows would have in fact no such effect at all.  
36  
37 Q. So, she was mistaken in thinking that her vows as a  
38 nun meant she couldn't talk about Monsignor Day's misdeeds?  
39 A. That's correct.  
40  
41 Q. There's then reference to a group of parents having a  
42 meeting and then deciding a delegation would insist on  
43 seeing Monsignor Day.  
44 A. Which paragraph is that?  
45  
46 Q. It's the next paragraph, Cardinal.  
47 A. Yes, I do.

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Q. Again, did it come to your attention, this is about five months in when you were at Swan Hill, that there was a group of parents meeting about Day and sending a delegation?

A. No, I've got no such recollection, no such recollection.

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

A. I do.

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

A. I do.

Q. Did it come to your attention that there was police involvement of Monsignor Day in January 1972?

A. No, I've got no such recollection.

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

A. Especially people in and around Mildura.

Q. Yes, but also people who you had contact with in Swan Hill; isn't that right?

A. Not many at all. Those long distances mean that people from those different centres don't get together too frequently.

Q. By "different centres", do you mean different parishes?

A. I mean in particular Swan Hill and Mildura.

Q. Why in particular those two areas?

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

Q. I'm sorry, I don't understand why the distance has

1 that effect. Do you mean, the distance had the effect  
2 because the subject matter was Mildura subject matter and  
3 not Swan Hill; is that what you're saying?

4 A. No, because there wasn't too much contact - well,  
5 that's one matter; but another factor I think is, simply  
6 the lack of contact between the two populations.

7  
8 Q. If you can turn to what is tab 17 of the tender  
9 bundle, which is a letter of complaint to Bishop Mulkearns.  
10 Has that been put in front of you, Cardinal?

11 A. Thank you, it has.

12  
13 Q. This is a letter dated 8 December 1971 to  
14 Bishop Mulkearns, signed by the police officer Denis Ryan  
15 and Mr Howden whose statement I've just taken you to.

16 A. Yes.

17  
18 Q. The first paragraph of that letter says:

19  
20 We the authors of this letter wish to bring  
21 to your notice the behaviour of Monsignor  
22 Day, the parish priest at Mildura.  
23 Approximately two months ago as the result  
24 of a complaint by a parent of one of the  
25 pupils at St Joseph's College ...  
26 investigations by both the undersigned  
27 revealed widespread moral misconduct over a  
28 period of thirteen years.

29  
30 Then there are various names which have been redacted  
31 of the victims of Monsignor Day.

32 A. Yes, I see that.

33  
34 Q. So that tells us, doesn't it, by 8 December 1971, it  
35 was known in the Mildura community that - or believed in  
36 the Mildura community by virtue of Mr Howden and Mr Ryan's  
37 work, that there had been, as described, widespread moral  
38 misconduct over a period of 13 years. That's in  
39 paragraph 1, the second-last line, if we can scroll up on  
40 the screen.

41 A. No, I can see that.

42  
43 Q. Cardinal --

44 A. You can draw no conclusion from this letter about how  
45 many people knew what, apart from the fact that it  
46 obviously wasn't just those two signatories and it wasn't  
47 just Mulkearns.

1  
2 Q. With respect, Cardinal, there are a number of  
3 conclusions, I suggest to you, that can be drawn: firstly,  
4 in relation to the seven people who are mentioned in that  
5 document as having been abused.  
6 A. I certainly accept that.  
7  
8 Q. The conclusions that the authors drew, of widespread  
9 moral misconduct over a period of 13 years, is an alarming  
10 conclusion, isn't it?  
11 A. Of course it's alarming.  
12  
13 Q. That Monsignor Day had effectively got away, according  
14 to the investigations of these two, with offending for over  
15 that period of time.  
16 A. Yes, that's totally unacceptable.  
17  
18 Q. The information that came to your attention was not of  
19 the widespread offending; is that right?  
20 A. It's certainly - I think the article spoke of more  
21 than one offence, that was certainly clear, but on detail  
22 like this, I was - of detail like this, I was totally  
23 unaware.  
24  
25 Q. If we can turn to a statement of [BPA]. It's a  
26 pseudonym, as you understand, Cardinal.  
27  
28 THE CHAIR: Which tab, Ms Furness?  
29  
30 MS FURNESS: Tab 1 of the statements bundle. I'm told  
31 it's also exhibit 28-117, if that helps anyone.  
32  
33 THE WITNESS: Thank you, I think I have [BPA]'s statement  
34 in front of me.  
35  
36 MS FURNESS: Q. At paragraph 5, [BPA] refers to having  
37 moved to Mildura in 1957.  
38 A. Yes.  
39  
40 Q. Then, if we refer down to paragraph 14, there's  
41 reference to "early January 1972 Monsignor Day coming to  
42 stay for a couple of days in Melbourne".  
43 A. Yes.  
44  
45 Q. Then there's reference to Monsignor Day sharing a  
46 shower with the boys.  
47 A. Yes.



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Q. And that her elder son "came out flushed" and "absolutely scarlet". At paragraphs 17-18, it becomes clear from her statement that her son had been abused by Monsignor Day.

A. Yes.

Q. Turning over to the next page, see the heading is, "Speaking to Father Taffe". Is it "Taffe" or "Taffey", Cardinal?

A. He was known amongst his friends as "Taffey", but the correct pronunciation is "Taffe".

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

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

A. I read that.

Q. I think you've indicated earlier that Father Taffe was the likely source of information to you about Monsignor Day; is that right?

A. I don't think I said any such thing. I said that I knew him and I was friendly with him; I've got no recollection of him giving me information about that, and I might have said that he did, but I would be interested to see the record to see the text.

Q. We'll check that and I will certainly withdraw it if that reflects the transcript. However, you did indicate that it was likely to be a priest who told you about Monsignor Day; do you recall that?

A. I would have discussed the matter with priests, certainly after the appearance of the paper - the paper article, the journal article.

Q. Is it the case that it's likely that Father Taffe was somebody who you discussed the newspaper article with?

A. It's not highly probable because I didn't have much to do with Taffe at all at that stage.

Q. Who else is likely to be the person or people you discussed the newspaper article with?

A. Obviously, the people in the presbytery at Swan Hill.

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Q. Just remind us again who you shared the presbytery with at Swan Hill?

A. That's Father Melican and Father Peter Brennan.

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

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

A. I did.

Q. Did Father Torpy tell you any of what I've just read to you from his private hearing?

A. No, I've got no such recollection.

Q. He also said, this is Torpy, that he was told by a parishioner that his child had been in a situation of sexual activity with Monsignor Day. He didn't tell you that?

A. No.

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

A. I do.

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

A. I do.

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

A. I do.

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

A. I do, I see that.

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

1 A. Yes.  
2  
3 Q. Did it come to your attention then that there was a  
4 police investigation?  
5 A. No.  
6  
7 Q. In the second paragraph, the police officer then told  
8 the Bishop of further allegations and, as a consequence of  
9 that, the Monsignor, that is Day, attended Ballarat the  
10 following day and then he publicly announced he submitted  
11 his resignation. Do you see that there?  
12 A. I see that, yes.  
13  
14 Q. Were you aware that the resignation was preceded by  
15 the police telling Bishop Mulkearns of serious further  
16 allegations?  
17 A. No.  
18  
19 Q. Bishop Mulkearns lived in Ballarat at this time, I  
20 take it?  
21 A. He did.  
22  
23 Q. As an assistant priest in Swan Hill, did you have much  
24 to do with him?  
25 A. Not a great deal at all.  
26  
27 Q. Father Madden has given evidence in a public hearing  
28 that Bishop Mulkearns told him what the policeman had told  
29 Bishop Mulkearns, that is, that there were serious  
30 allegations that Monsignor Day had committed sexual  
31 offences against children. Stopping there, did you know  
32 Father Madden at this time?  
33 A. This is in 1971/1972?  
34  
35 Q. 1972, January 1972?  
36 A. Very hardly at all. I knew who he was, we had never  
37 been in the seminary together, so I didn't know him well at  
38 all.  
39  
40 Q. If I can show you one second-last document, behind  
41 tab 46 of the bundle you have. It's somewhat faint,  
42 Cardinal.  
43 A. Very.  
44  
45 Q. It's signed by the Solicitor-General, I think, and  
46 it's dated 17 April 1972 and it's a memorandum for the  
47 Undersecretary. You can assume that the file he said he

1 read was in relation to any prosecution of Day, and he  
2 notes that he:

3  
4 ... [agrees] with the opinion expressed  
5 that the evidence is insufficient to  
6 warrant launching prosecutions.

7  
8 You see that in the first paragraph?

9 A. Yes.

10  
11 Q. Coming down to the second-last paragraph he says  
12 there:

13  
14 I trust that the authorities in the church  
15 will realise that the decision not to  
16 prosecute does not come from any conviction  
17 that the allegations are unfounded. Having  
18 regard to the similarities of the various  
19 accounts, there would appear to be little  
20 room for doubt that Day misconducted  
21 himself.

22  
23 Just stopping there, I take it that you were well  
24 aware at that time that there are many reasons, or were  
25 many reasons, for police not prosecuting a person after an  
26 investigation that related to other than the lack of  
27 evidence?

28 A. I was aware of no such thing, I had no interest or  
29 knowledge of the pros and cons of when there would or  
30 wouldn't be prosecutions. I was unaware totally of the  
31 existence of this letter.

32  
33 Q. The proposition that's being put in that letter is,  
34 just because there's no prosecution doesn't mean that  
35 allegations are unfounded. Now, that's a view you would  
36 have been --

37 A. That --

38  
39 Q. I'm sorry, Cardinal.

40 A. I read and understand that.

41  
42 Q. Is that a view you shared?

43 A. Well, I think it's quite unusual to me, I'm no expert  
44 in these matters, that if there is massive evidence, why it  
45 wasn't prosecuted. But I understand what he's saying: just  
46 because there's no prosecution you can't conclude that he's  
47 innocent.

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Q. Well, he's going a bit further than that, he's saying that it doesn't come from any conviction that the allegations are unfounded, and then he goes further to say:

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

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

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

A. Yes.

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

A. Yes, I understand that.

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

A. Yes.

Q. You generally recognise this document as a meeting of the Diocesan Council at times when it was handwritten as opposed to typed. The form of it is familiar to you, I take it, Cardinal?

A. It is. I am just wondering whether the Diocesan Council did the same as the Consultors. It appears to be. It wasn't a term that I remember.

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

A. Good.

Q. -- present, we have Bishop Mulkearns who presided, Monsignor Gleeson; did you know him?

A. Hardly at all; I met him once or twice.

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

A. Is that Frank Madden?

Q. Could well be, that could be an "F".

A. I certainly know Frank Madden; I can't place a

1 J Madden. It might be J F Madden.  
2  
3 Q. It may be J F Madden. And "VG", so he was the  
4 Vicar-General at the time?  
5 A. Yes.  
6  
7 Q. Then Monsignor Fiscalini; did you know him?  
8 A. Yes; yes, I did.  
9  
10 Q. Was he a friend of your family at some stage?  
11 A. Yes, he was.  
12  
13 Q. And then, Monsignor McInerney; did you know him?  
14 A. Yes, I did.  
15  
16 Q. He was somebody you knew at this time, in 1972?  
17 A. Yes, yes, he became a good friend.  
18  
19 Q. And Monsignor McMahon?  
20 A. Yes, he was at Ballarat East with me.  
21  
22 Q. Monsignor O'Keefe?  
23 A. Yes, I got to know him later.  
24  
25 Q. Monsignor O'Brien?  
26 A. Yes, I certainly knew him, Monsignor Tom O'Brien, I  
27 think.  
28  
29 Q. Can you help us with what's before Father Melican's  
30 name? Is that a title you're familiar with? It might be  
31 "Dean".  
32  
33 THE CHAIR: We may have lost him.  
34  
35 MS FURNESS: Q. Can you hear me, Cardinal?  
36 A. Dean Melican is possibly an affectation for the parish  
37 priest of Swan Hill.  
38  
39 Q. So that's the Dean or Father Melican that you lived in  
40 the presbytery with when you were both at Swan Hill?  
41 A. That is correct. That is correct.  
42  
43 Q. And Monsignor McKenzie?  
44 A. Yes, that's right.  
45  
46 Q. Did you know him?  
47 A. I know - yes, yes.

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Q. Are these people you knew at the time, or subsequently, or both?

A. A mixture, but I knew just about all of them.

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

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

I can't read that last word.

THE CHAIR: "Salary".

THE WITNESS: "Salary".

MS FURNESS: Q. Thank you. Did any of those present at the meeting tell you the circumstances which Bishop Mulkearns told them about which led to the resignation of Monsignor Day?

A. I don't think so. That might have been mentioned subsequent to this famous article.

Q. You don't remember learning about it before the famous article?

A. I don't, but it might have been mentioned. It might have been mentioned after he took the leave. It's over 40 years ago and I can't recall.

Q. If it was mentioned, is it likely that it would have been Father Melican because of your sharing a presbytery?

A. That's certainly one possibility.

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

A. I think I did look at it.

Q. We understand that it was published in The Melbourne Observer on 13 August 1972.

A. I thought it could have been a Melbourne paper.

Q. Melbourne papers find their way to Swan Hill, I take

1 it, and Mildura?  
2 A. Occasionally.  
3  
4 Q. What this paper does is, talks about the police and  
5 their investigations and what ultimately happened to those  
6 investigations. You understand that from reading the  
7 article?  
8 A. Yes.  
9  
10 Q. You had no doubt, when you saw this article, that it  
11 was about Day, did you?  
12 A. No, I had no, no doubts.  
13  
14 Q. You think you saw it around the time it was  
15 published, August 1972?  
16 A. Yes, not long afterwards and not before.  
17  
18 Q. Well, you wouldn't have seen the article before it was  
19 published, would you?  
20 A. That's correct. That's correct.  
21  
22 Q. And you were still at Swan Hill at this stage, weren't  
23 you, August 1972?  
24 A. Yes.  
25  
26 Q. Was this the first occasion on which it came to your  
27 attention that a priest had been accused of sexual offences  
28 against children?  
29 A. It's difficult to answer that absolutely, but it  
30 certainly would be one of the first and perhaps the first.  
31  
32 Q. When you say "one of the first", this was in 1972 and  
33 it was your first appointment as an assistant priest;  
34 that's right?  
35 A. Yes, I can't think of any earlier example.  
36  
37 Q. If there was an earlier example, it's likely to be, I  
38 take it, before you were appointed an assistant priest at  
39 Swan Hill; is that a reasonable assumption?  
40 A. Absolutely.  
41  
42 Q. When you saw this article around the time it was  
43 published, did you put two and two together and come to the  
44 view that Monsignor Day left or resigned because of the  
45 charges or the investigation by the police?  
46 A. Yes, I thought that was highly probable.  
47



1 Q. Monsignor Day was later appointed the parish priest of  
2 Timboon; where was Timboon?  
3 A. Yes. It's in the western district.  
4  
5 Q. If we can turn to tab 65, these I think are  
6 the minutes of the Diocesan Council meeting recording that  
7 appointment.  
8 A. Yes.  
9  
10 Q. If you scroll up to the top of that page, if we can  
11 have that document on the screen, you'll see that the date  
12 was January 1973 and those present were similar, if not the  
13 same, as those who were present at the previous meeting I  
14 took you to?  
15 A. I do see that.  
16  
17 Q. About three paragraphs down, there's reference to:  
18  
19 That Monsignor Day be appointed parish  
20 priest of Timboon.  
21  
22 It was moved by Monsignor McInerney and seconded by  
23 Monsignor Fiscalini.  
24 A. Yes.  
25  
26 Q. Cardinal, you know from the documents I've shown you  
27 that Bishop Mulkearns received at least one, if not more,  
28 delegations or visits from people who told him about  
29 allegations against Day?  
30 A. Yes.  
31  
32 Q. And that the police, in particular just shortly before  
33 his resignation, told him, in the language that he used to  
34 Father Madden, that there were serious allegations against  
35 him; you gather that from the documents I've taken you to  
36 earlier?  
37 A. Yes, I do, I do.  
38  
39 Q. Can you tell us what your view is, given that history,  
40 for Monsignor Day being appointed as a parish priest about  
41 a year after he had resigned.  
42 A. In the light of what I know now, and obviously our  
43 present basic and appropriate understandings, it's quite  
44 unacceptable.  
45  
46 Q. It's unacceptable because it's putting a priest, who  
47 is the subject of serious sexual allegations against

1 children, back into a parish, isn't it?  
2 A. That is correct.  
3  
4 Q. Did it come to your attention that that occurred?  
5 A. Yes, I think I was aware - I was aware of that.  
6  
7 Q. You were aware of it around the time it happened?  
8 A. Or soon after it happened.  
9  
10 Q. Were the circumstances of you becoming aware of it  
11 being told by a priest?  
12 A. I think we - I have said I - that I think that's the  
13 case. But I - you mean, aware of the appointment at  
14 Timboon?  
15  
16 Q. I do, Cardinal?  
17 A. That would be circulated in the Bishop's circular news  
18 sheet.  
19  
20 Q. Do you recall reading it in the Bishop's circular news  
21 sheet?  
22 A. No, I don't, but I would have.  
23  
24 Q. Did any of the priests who were Consultors in relation  
25 to both the meeting at which the circumstances of his  
26 resignation were discussed, and where he was appointed at  
27 Timboon, talk to you about those events?  
28 A. No. About this move to Timboon, no, I don't think so,  
29 and I can't remember other particular conversations about  
30 the Mildura activity or about the appointment.  
31  
32 Q. You would be rightly, I suggest, Cardinal, critical of  
33 all those who attended the meeting at which the Bishop told  
34 them the circumstances of Day's resignation --  
35 A. Yes, I am critical of it.  
36  
37 Q. -- and who attended this meeting and permitted the  
38 appointment to go ahead?  
39 A. Yes, I have to agree.  
40  
41 Q. Turning from Monsignor Day to the Christian Brothers,  
42 if I can change the topic. Perhaps that folder can be  
43 taken away from you, Cardinal.  
44 A. Thank you.  
45  
46 Q. After leaving Swan Hill, you were assistant priest in  
47 the Parish of Ballarat East from 1973-1983?

1 A. I was.  
2  
3 Q. And for all of that time you were Episcopal Vicar for  
4 Education?  
5 A. From later in 1973.  
6  
7 Q. From, I think, May 1973-1984?  
8 A. I thought it was a little bit later than May, but no  
9 doubt you're correct.  
10  
11 Q. You lived in the St Alipius Presbytery?  
12 A. I lived there, yes.  
13  
14 Q. The presbytery, was that next door to the school?  
15 A. Separated by the church.  
16  
17 Q. So it was on the other side of the church?  
18 A. Yes.  
19  
20 Q. Did you have any involvement with St Alipius as part  
21 of your role as Episcopal Vicar?  
22 A. St Alipius Parish or St Alipius School?  
23  
24 Q. St Alipius School.  
25 A. Almost nothing.  
26  
27 Q. St Alipius Parish?  
28 A. Well, I lived there and I provided - I usually  
29 celebrated three masses every weekend.  
30  
31 Q. I take it that those who attended St Alipius Parish,  
32 some of them would have been parents of or children who  
33 went to St Alipius School?  
34 A. That is correct.  
35  
36 Q. Was Sister Ambrose the principal of the school at that  
37 time?  
38 A. Sister Ann?  
39  
40 Q. Ambrose, A-M-B --  
41 A. There were then two primary schools, a girls' primary  
42 school and the Christian Brothers boys' primary school at  
43 Ballarat East, and during my time at the East they were  
44 merged. I'm struggling to recall just who was Sister  
45 Ambrose because I think many of the nuns changed their  
46 names.  
47

1 Q. But you would have known who the principal was of the  
2 boys' school at the time?  
3 A. It certainly wasn't Sister Ambrose.  
4  
5 Q. What about Brother Alan Noyes, N-O-Y-E-S; do you know  
6 him?  
7 A. No, that doesn't ring a bell either. Could have been  
8 but I - and if that is the case, but that doesn't ring a  
9 bell.  
10  
11 Q. Monsignor McMahon, I think, lived with you in the  
12 presbytery from 1973-1975; is that right?  
13 A. Yes, he died about that time.  
14  
15 Q. Is he the Monsignor McMahon that we saw on the  
16 Diocesan Council minutes?  
17 A. He is.  
18  
19 Q. I think Father O'Toole also lived in that presbytery  
20 with you over about the same time, 1973-1975?  
21 A. I think he came in 1974, Father O'Toole.  
22  
23 Q. Thank you. The presbytery had rooms for how many  
24 priests?  
25 A. Three or four - or three and four.  
26  
27 Q. So there were three or four bedrooms upstairs?  
28 A. There's no upstairs, it's all one level.  
29  
30 Q. So there were three or four bedrooms, together with  
31 some parlour or sitting room?  
32 A. There were additions on the back of the old  
33 presbytery; the parish priests' quarters, office and  
34 bedroom were up the front. There was an extra lounge room  
35 or study which I eventually used as my bedroom, and on a  
36 wing out the back there were two rooms for priest.  
37  
38 Q. Did you say bedrooms or meeting rooms?  
39 A. No, there was a meeting room where the money was  
40 counted for example from the collections, and then when the  
41 new wing started, a couple of bedrooms.  
42  
43 Q. So, when parishioners came to visit a priest, where  
44 did they sit?  
45 A. Normally, in the front parlour.  
46  
47 Q. During the time you were assistant priest, there were

1 a number of Brothers who were teaching at St Alipius, which  
2 by the way was a Diocesan school, wasn't it?  
3 A. Technically, but in fact it was run by the Christian  
4 Brothers, and I don't think the parish priests of Ballarat  
5 East had any say in who was principal. I think the  
6 Christian Brothers Order appointed the staff. That's my  
7 understanding, that might be mistaken.  
8  
9 Q. Some of the Brothers who were at the school when you  
10 were assistant priest, Brother Dowlan?  
11 A. Yes, I remember Dowlan, not --  
12  
13 Q. I beg your pardon, I'm sorry, Cardinal; you remember  
14 Dowlan but?  
15 A. But not well. Not extensively, but I certainly knew  
16 him.  
17  
18 Q. Brother Farrell?  
19 A. Yes, less clearly.  
20  
21 Q. Brother Fitzgerald?  
22 A. Yes, I knew Brother Fitzgerald.  
23  
24 Q. And a Brother who we've given a pseudonym to, which  
25 you'll see on your pseudonym list, [CCK]. It's on the  
26 second page, the third-last entry.  
27 A. Yes, I do.  
28  
29 Q. You knew him?  
30 A. I did.  
31  
32 Q. When you were assistant priest from 1973 onwards, did  
33 anyone come to you - by anyone, I mean priest, parishioner,  
34 parent, child - with gossip, innuendo, rumours, complaints  
35 about any of those Brothers?  
36 A. There was talk about the eccentricity of Brother, is  
37 it Fitzgerald?  
38  
39 Q. Yes.  
40 A. But there were no specific accusations.  
41  
42 Q. What was it about the Brother that showed him to be  
43 eccentric?  
44 A. I think he used to - it's alleged he'd - when some of  
45 the boys were leaving he'd give them a kiss. He was very  
46 strange, old-fashioned, but a good teacher; there were  
47 things like that.

1  
2 Q. At the time, did you see him kissing the children as  
3 sexualised behaviour?  
4 A. No, it was common knowledge, and the general  
5 conviction was, it was harmless enough.  
6  
7 Q. It was merely showing affection to the children; is  
8 that how it was thought?  
9 A. Yes, he was an older man and it was - I remember it  
10 being discussed and mentioned to me, and people were aware  
11 of it and they weren't insisting that anything be done.  
12  
13 Q. When you say it was discussed and mentioned to you,  
14 was that in the context of you being either Episcopal Vicar  
15 or assistant priest?  
16 A. That was through parish friends.  
17  
18 Q. So parishioners were talking to you about it?  
19 A. It was mentioned, yes, to me.  
20  
21 Q. Do you know whether those parishioners were parents of  
22 children at the school?  
23 A. Yes, one or some of them were.  
24  
25 Q. You said that people were aware of it and they weren't  
26 insisting that anything be done; that suggests that there  
27 might have been something untoward about it. Was that how  
28 it was presented to you?  
29 A. Well, it was certainly unusual, but no-one - not only  
30 that they didn't insist, but nobody said "we've got to do  
31 something about this".  
32  
33 Q. Given your role as assistant parish priest, there was  
34 nothing you could have done about it, was there, him being  
35 a Christian Brother?  
36 A. Well, I could have mentioned it to the principal or  
37 the parish priest, but I had no jurisdiction in any sense  
38 over the Christian Brothers.  
39  
40 Q. But I take it from what you've said, the principal and  
41 the parish priests were probably aware of it as well?  
42 A. Yes, I think that's a reasonable assumption.  
43  
44 Q. Can I show you a visitation report that's in tab 43 of  
45 a bundle, the Christian Brothers bundle. Are you familiar  
46 with visitation reports that the Christian Brothers --  
47 A. Certainly not, no.

1  
2 Q. Have you seen this one before?  
3 A. No.  
4  
5 Q. You can see the date's 18 July 1973, it's referred to  
6 under, "St Patrick's Province Australia", "A visitation  
7 report of Ballarat". Can you just assume that this is a  
8 document that is produced by a senior Christian Brother  
9 after visiting a particular area. You can assume that.  
10 A. I do, I do.  
11  
12 Q. Turning down to page 5, do you see there's reference  
13 to "Brother [BWX]"?  
14 A. Yes.  
15  
16 Q. If you go back to your pseudonym list, you will find  
17 him on that list.  
18 A. Yes, [BWX].  
19  
20 Q. Can you find him on that list?  
21 A. Yes, I have.  
22  
23 Q. That name's familiar to you?  
24 A. No, I can't recall him at all.  
25  
26 Q. No? Do you see there's ref --  
27 A. Perhaps I should, but I can't just place him.  
28  
29 Q. This is July 1973, so you were at Ballarat East at the  
30 time living in the presbytery, weren't you?  
31 A. I was. I had next to nothing to do with the primary  
32 school.  
33  
34 Q. Thank you. Do you see, there's reference to:  
35  
36 ... the change of [BWX] because of the  
37 revelation of a serious act of indiscretion  
38 (even misconduct) of which he was guilty  
39 with respect to two of the senior boys  
40 separately.  
41  
42 Then it goes on to say:  
43  
44 The event had taken place some months  
45 previously but had only just been reported  
46 to the Superior.  
47

1 I understand you don't remember Brother [BWX], but did  
2 this come to your attention at all?  
3 A. No, never.  
4  
5 Q. When did you first hear of Christian Brothers in  
6 Ballarat offending against children?  
7 A. That's a very good question. Perhaps in the early  
8 1970s I heard things about Dowlan.  
9  
10 Q. What did you hear about Dowlan?  
11 A. I heard that there were problems at St Pat's College.  
12  
13 Q. What sort of problems?  
14 A. Unspecified, but harsh discipline and possibly other  
15 infractions also.  
16  
17 Q. When you say "possibly other infractions", you mean of  
18 a sexual nature?  
19 A. I do.  
20  
21 Q. Who did you hear that from?  
22 A. Once again, it's difficult to recall accurately. I  
23 could have heard it from one or two of the students and  
24 certainly I think one or two of the priests mentioned that  
25 there were problems and some of them believed they were  
26 very - because of harsh discipline.  
27  
28 Q. And the problems described to you were problems of a  
29 sexual kind with children?  
30 A. None of the activities were described to me, they were  
31 just referred to briefly.  
32  
33 Q. But you answered the question of, "When you say  
34 possibly other infractions, you mean of a sexual nature?",  
35 you agreed with that proposition?  
36 A. Yes, that was a - that's correct.  
37  
38 Q. And it could only have been sexual with children,  
39 couldn't it?  
40 A. That's correct, with minors.  
41  
42 Q. When you heard about those problems, did you do  
43 anything with that information?  
44 A. It was, they were - it was unspecific, but in fact I  
45 did; I mentioned to the school chaplain, a priest whom I  
46 greatly respected, I said, "There is talk about problems at  
47 St Pat's College with Dowlan", and I said, "Is there any



1 truth in them?" He said, "Yes, there are problems,  
2 certainly discipline problems, but I think the Brothers  
3 have got the matter in hand". And in fact, he left at the  
4 end of 1974.

5

6 Q. Who was the chaplain?

7 A. Father Brendan Davey.

8

9 Q. When you spoke to him, you made it plain, I take it,  
10 that the problems you'd heard of included sexual problems  
11 with minors?

12 A. I made nothing plain to him. I told him that I'd  
13 heard these rumours and I asked him whether there was  
14 anything in them.

15

16 Q. And he said there were?

17 A. He said there were, there was in some way or other,  
18 and the Brothers were looking into it.

19

20 Q. At that time, did you understand that the principal of  
21 St Patrick's had knowledge about the problems?

22 A. No, I did not - well, I - I mean, if he was dealing  
23 about it, he obviously would have, but I hadn't heard of  
24 who'd told him or when he'd known or anything like that.

25

26 Q. With the students who came to you, do you know whether  
27 they had approached the principal or other more senior  
28 teachers in the school?

29 A. My recollection, such as it is, is that, one of the  
30 lads said that Dowlan was misbehaving and - no, they didn't  
31 say to me they'd gone to the principal or anything like  
32 that.

33

34 Q. Was the principal, Nangle, at the time?

35 A. I believe so.

36

37 Q. Did you have much to do with him?

38 A. Eventually, I had a bit to do with him, yes; quite a  
39 bit, but that developed slowly over the years.

40

41 Q. In what context?

42 A. Well, I would attend the speech nights, I eventually  
43 coached rowing at the school for some years; that was the  
44 extent of - they were the primary reasons for being in  
45 contact with him.

46

47 Q. Did you hear about what happened to Dowlan, if

1 anything, after those people you've described came to you?  
2 A. I heard he had left, I had no recollection of where he  
3 went until I started to prepare for this.  
4  
5 Q. Was it your understanding that he left not long after  
6 those problems had emerged?  
7 A. That is my understanding, and I think that is what in  
8 fact happened, I think.  
9  
10 Q. Did you draw the conclusion that he left because of  
11 the allegations of sexual impropriety with minors?  
12 A. Yes, I didn't know the nature of those, whether they  
13 were indiscretions or crimes.  
14  
15 Q. Did his leaving say anything to you about the  
16 likelihood those allegations were true?  
17 A. Well, I certainly concluded there must have been - he  
18 must have been, at the very minimum, unwise and imprudent,  
19 at the very minimum.  
20  
21 Q. That's Brother Dowlan. We've talked about Brother  
22 [BWX]; what about the others? There's Brother --  
23 A. Which Brother in particular?  
24  
25 Q. There's Brother [CCK]. It's on the second page,  
26 towards the bottom.  
27 A. Yes, certainly.  
28  
29 Q. What did you hear about him?  
30 A. I never heard any allegations against him during my  
31 time at Ballarat East, or suggestions or gossip. He was  
32 very highly regarded, at least amongst my friends.  
33  
34 MR DUGGAN: Your Honour, can I just interrupt for a  
35 moment. I'm not sure whether that "yes, certainly" was a  
36 reference to whether he could see the name on the document,  
37 but it might be that that could be clarified, because I'd  
38 hate for that to be used against --  
39  
40 THE CHAIR: It was the name on the document.  
41  
42 MS FURNESS: It was the name on the document.  
43  
44 MR DUGGAN: Thank you.  
45  
46 MS FURNESS: Q. You've indicated, in relation to  
47 Brother Fitzgerald, there was talk about him kissing boys;

1 that's right?  
2 A. I do. Yes, I did.  
3  
4 Q. Any other Brother? Brother Farrell, did you hear  
5 anything about Brother Farrell?  
6 A. No, I don't recall anything at all. I can't remember  
7 Brother Farrell much at all.  
8  
9 Q. Just staying with that visitation report that was on  
10 the screen, coming back to the screen. Turning to the last  
11 page, the third-last entry is, "St Alipius School, Ballarat  
12 East". Have you got that?  
13 A. Yes.  
14  
15 Q. You referred earlier to a time when the boys' and  
16 girls' schools combined?  
17 A. Yes.  
18  
19 Q. This seems to be a reflection of your talking to the  
20 Brothers about doing that.  
21 A. Yes, that's correct.  
22  
23 Q. Do you know the circumstances in which you had that  
24 discussion with the Brothers?  
25 A. We were - the school buildings were old and  
26 inadequate. These were the times of the Carmel Report,  
27 where for the first time very significant monies were  
28 available from the government to the Catholic schools. The  
29 educational style of the Christian Brothers was antique and  
30 inappropriate, and I thought, as did a lot of other people,  
31 that putting the two schools together and doing them up,  
32 certainly the type of education available for the boys  
33 would be improved.  
34  
35 Q. And you were successful?  
36 A. Yes, I wouldn't say I was successful; I was part of a  
37 group of people who combined to bring this about.  
38  
39 Q. If we can have tab 7 of the statements bundle, Father  
40 Madden. This is the James Francis Madden that was one of  
41 the Consultors at the two meetings I took you to in  
42 relation to Day.  
43 A. Yes.  
44  
45 Q. It's since been confirmed, Cardinal, that indeed the  
46 Madden who was at that meeting is the Madden you've  
47 referred to as knowing.

1 A. Yes.  
2  
3 Q. As Frank.  
4 A. That is correct.  
5  
6 Q. Coming down to paragraph 8, you will see from the  
7 previous paragraph, that he was chaplain to the Christian  
8 Brothers in Warrnambool and that Brother [BWX] was a  
9 teacher at the college at some stage during that period.  
10  
11 He then, in paragraph 8 refers to:  
12  
13 ... passing a group of students about 13 or  
14 14 years old, who were ... bantering  
15 amongst themselves ... saying, 'Be careful  
16 if [BWX] offers to give you a massage'.  
17  
18 Is that the sort of information that came to you when  
19 you were speaking before about problems being raised with  
20 you?  
21 A. No, I said there were no problems - I'll just make  
22 sure I've got [BWX], I'm still on the - could you just -  
23 where is it on the page, [BWX], I just want to make sure  
24 I've got the right person?  
25  
26 Q. Certainly. It's halfway on the second page.  
27 A. No, I knew - I know next to nothing about him. I  
28 can't remember him.  
29  
30 Q. Leaving aside that it's [BWX], was information of that  
31 sort, that is, a warning if a priest or a Father, or a  
32 Brother, offers to give you a massage, is that the sort of  
33 thing people --  
34 A. Yes, I'd never heard of any massages at Ballarat East,  
35 and certainly a warning sign.  
36  
37 Q. Father O'Toole, I think you've indicated you knew; he  
38 lived with you for a while at the presbytery, didn't he?  
39 A. He did, he's a good friend.  
40  
41 Q. Father O'Toole has given evidence in a private hearing  
42 which was subsequently tendered; if you want the  
43 transcript to come up, just ask, Cardinal, and we'll make  
44 it available.  
45 A. Good.  
46  
47 Q. He refers to his time at the Ballarat East Presbytery,

1 and that when he was assistant priest there, parents whose  
2 children were at St Alipius told him of incidents of  
3 sexualised conduct by the Christian Brothers. Now, did he  
4 tell you about that?  
5 A. No, he didn't mention that to me.  
6  
7 Q. Is that consistent with what you heard elsewhere?  
8 A. I don't think I heard anything about the Christian  
9 Brothers at Ballarat East at that stage apart from the talk  
10 about Fitzgerald.  
11  
12 Q. It could well be the case that kissing boys could be  
13 described as sexualised conduct, couldn't it?  
14 A. Yep, certainly. In the reports given to me, it was  
15 done in front of everybody.  
16  
17 Q. So it wasn't hidden?  
18 A. That's the way it was reported to me.  
19  
20 Q. Father O'Toole also gave evidence that the parish  
21 priest of Ballarat East at the time, Monsignor William  
22 McMahon - now, you know him, don't you?  
23 A. I do.  
24  
25 Q. He was on the Consultors Committee on those two  
26 occasions in respect to Monsignor Day; is that right?  
27 A. He was, he was.  
28  
29 Q. Father O'Toole said that Monsignor McMahon told him  
30 that a child's parents had spoken to Monsignor McMahon  
31 about Brother Farrell exposing himself to a child. Did  
32 that come to your attention?  
33 A. No.  
34  
35 Q. Neither O'Toole nor Monsignor McMahon spoke to you  
36 about that?  
37 A. No.  
38  
39 Q. Was exposing one's self a description that was  
40 provided to you when earlier you described problems coming  
41 to your attention.  
42 A. No.  
43  
44 Q. Monsignor O'Toole also gave evidence of having heard  
45 rumours about Brother Fitzgerald taking boys out and going  
46 bike riding and the like and swimming in the nude; did that  
47 come to your attention?

1 A. Yes, I had heard, at the break-up at the end of  
2 the year they did swim naked.  
3  
4 Q. What did you think of that when you heard it?  
5 A. Once again, it was quite common knowledge. Once upon  
6 a time in the schools it was not uncommon at all; it was  
7 most unusual at that stage for us, but no improprieties  
8 were ever alleged to me.  
9  
10 Q. But you would have considered it, wouldn't you,  
11 somewhat imprudent of a Brother to do that, even at that  
12 time?  
13 A. Certainly, yes.  
14  
15 Q. Father O'Toole said that those rumours, he thought,  
16 came from parents who were his parishioners at Ballarat  
17 East. Now, did parishioners at Ballarat East tell you  
18 about problems with Brothers?  
19 A. No, apart from mentioning Fitzgerald, I don't believe  
20 they did.  
21  
22 Q. Now --  
23 A. By way of explanation, I might say I was a full-time  
24 academic, I was rarely in the parish during the days, I had  
25 Saturday off, and I said three masses in the parish on  
26 Sunday, so it wasn't as though I was regularly around the  
27 parish and available for parents to talk to me.  
28  
29 Q. Thank you, Cardinal. Cardinal, you'd be aware from  
30 data that the Royal Commission has published about, in  
31 broad terms, the number of individuals who've made claims  
32 against the Christian Brothers for this period of time,  
33 that is, 1971 to the late 1970s, in broad terms you're  
34 aware of the number of claims?  
35 A. Only in broad terms. I'm aware it was very high.  
36  
37 Q. Yes. If I can take you to a statement of Mr Barlow.  
38 Do you have that, Cardinal?  
39 A. Not as yet, not as yet.  
40  
41 Q. I'm sure it's coming. Is that a statement of Timothy  
42 John Barlow?  
43 A. It is.  
44  
45 Q. Is that name familiar to you from your time in  
46 Ballarat East?  
47 A. No, in fact, it isn't.

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Q. You will see, in paragraph 3, he refers to being a boarder in 1973 at St Pat's?

A. I do.

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

Did that term come to your attention?

A. Never heard it.

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

A. Certainly.

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

A. Yes.

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

A. I do.

Q. Is that name familiar to you from that time?

A. Not from that time, but from recently.

Q. Do you see at paragraph 6, Mr Green commenced high school at St Pat's in 1973?

A. Yes, that's correct, I read that.

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

A. That is correct.

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

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

Then in paragraph 13 he said:

Everyone in the class knew what was going

1 on but it was never discussed. We used to  
2 say, 'He's [Dowlan's] got him again, he's  
3 got him again, he's touching him again'.  
4 [Then refers to] it was common knowledge  
5 among the students [in his year] that  
6 Dowlan was abusing many of the boys at the  
7 school.

8  
9 Is that the sort of information that came to your  
10 attention in relation to Brother Dowlan as you've indicated  
11 before it came to your attention?

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

14  
15 Q. By "gross", do you mean touching the kids?

16 A. Well, yes, and in big numbers and everybody knowing,  
17 and so many people being victims.

18  
19 Q. So, when problems were discussed with you, it was not  
20 in terms of numbers but more individual, an individual  
21 child, or individual children?

22 A. No, I don't think there were any names given to me at  
23 all. There were fleeting ref - one or two fleeting  
24 references.

25  
26 Q. Fleeting references to what?

27 A. To misbehaviour by Dowlan which I concluded might have  
28 been paedophilic activity.

29  
30 Q. Just turning down to paragraph 15, Mr Green says there  
31 that he:

32  
33 ... [finds] it inconceivable that none of  
34 the Brothers, lay teachers, the nurse, or  
35 even some of the parents knew about the  
36 abuse by Dowlan. It was just so blatantly  
37 obvious and every boy in the class knew  
38 that their turn was going to come up at  
39 some stage.

40  
41 Stopping there, is it the case that the information  
42 you've described that came to you, came to you from a lay  
43 teacher?

44 A. No.

45  
46 Q. One of the Brothers?

47 A. No.



1  
2 Q. A nurse?  
3 A. No.  
4  
5 Q. But I think you've said some of the parents spoke to  
6 you?  
7 A. No, I don't think I said the parents spoke to me about  
8 Dowlan.  
9  
10 Q. Parents or parishioners?  
11 A. No.  
12  
13 Q. Who spoke to you about Dowlan?  
14 A. It was a St Pat's boy.  
15  
16 Q. Just one?  
17 A. A fellow at the school. Yes, one that I remember.  
18  
19 Q. So there might have been more than one, but you  
20 particularly remember that one?  
21 A. I remember one in particular.  
22  
23 Q. Do you remember his name? I'm not asking you to say  
24 it at the moment, but do you remember his name?  
25 A. Yes, I do, and he recollected it years later, but I  
26 remembered him as a good and honest lad and I didn't think  
27 he'd be telling - I couldn't remember the actual incident,  
28 but I didn't think he'd be telling lies.  
29  
30 Q. Coming to a document in relation to Mr Ryan, tab 127.  
31 Have you been provided with that?  
32 A. Thank you.  
33  
34 Q. That is a letter from J E O'Connor, a chartered loss  
35 adjuster; is that the document you have?  
36 A. It is.  
37  
38 Q. Is his name familiar to you from later years, this is  
39 1994, and the work he was doing for the church?  
40 A. The name "O'Connor"?  
41  
42 Q. Yes.  
43 A. No, it's not.  
44  
45 Q. Was it the case that you understood that, in the 1990s  
46 when claims were made against either an order or a Diocese,  
47 that an investigation of sorts was carried out? You're

1 aware of that?  
2 A. Yes, I was aware of that.  
3  
4 Q. And that --  
5 A. Or should have been carried out. That it was carried  
6 out or should have been carried out.  
7  
8 Q. And Mr O'Connor, that's not a name familiar to you as  
9 the person who frequently carried them out?  
10 A. I'm not sure, what did he - he was an investigator,  
11 was he? A loss adjuster.  
12  
13 Q. He carried out investigations.  
14 A. No, I don't think I had much, if anything, to do with  
15 him at all.  
16  
17 Q. Scrolling down, this is in relation to [BWG], and if  
18 you can look at who [BWG] is.  
19 A. Yes.  
20  
21 Q. Is that name familiar to you?  
22 A. Only as a result of the documentation that was  
23 recently presented.  
24  
25 Q. Do you see, on page 2, there's a heading, "Maurice  
26 Peter Holloway" - sorry, the next page, which is for some  
27 reason page 10 on mine, 0225 at the top.  
28 A. Yes.  
29  
30 Q. Mr Holloway was a teacher at St Pat's from 1972-1982  
31 relevantly. Did you know him at the time he was teaching  
32 there?  
33 A. Not much, but the name rings a bell, strikes a cord.  
34  
35 Q. He, on the next page - now, do you see the  
36 paragraph further down, beginning, "Later"?  
37 A. Yes.  
38  
39 Q. He says there that:  
40  
41 Later he did recall vaguely [or he says to  
42 the loss adjuster] two parents complaining  
43 to the principal ... that Brother Ted  
44 Dowlan may have been interfering with their  
45 sons. Mr Holloway interviewed the ...  
46 children ... and passed the information on  
47 to Brother Nangle ...

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Did that come to your attention, that parents had complained to Brother Nangle in those circumstances?

A. No.

Q. It's referred to there, that it was at the time that Brother Dowlan may have been putting an arm around the children; was that sort of conduct the conduct that was brought to your attention, putting an arm around a child or children?

A. No.

Q. No?

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

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

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

Did that come to your attention?

A. No.

Q. What about Brother Dowlan "putting his hands down boys' trousers"?

A. No.

Q. If we can turn to the last page, which is page 0239.

A. The last page of this tab?

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

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

That's consistent with what you heard about the violence - that might not have been your word, Cardinal - of the Brothers at St Pat's?

A. Yes.

1 Q. Coming back to that page and scrolling down, there's  
2 reference to a sexual molestation by Brother Dowlan prior  
3 to the physical assault being committed, and then the  
4 conclusion that:

5  
6 ... it would appear likely that such a  
7 sexual assault did occur in 1973.

8  
9 A. Yes.

10  
11 Q. You didn't receive any specific information about a  
12 sexual assault by Brother Dowlan on any individual, did  
13 you?

14 A. No.

15  
16 Q. Turning to tab 262. This is a reference to  
17 allegations that had been made against Brother [CCK]. Now,  
18 I think you know who Brother [CCK] is?

19 A. Yes.

20  
21 Q. Scrolling a bit further down, it's a denial by [CCK]  
22 that he ever touched a boy on the genitals.

23  
24 Then further goes down to say that:

25  
26 There was an allegation from Mrs [CCA]  
27 which she told to Brother [CCK] that a  
28 Brother (apparently Ted Dowlan) was taking  
29 pictures of her other boys in the showers  
30 at Ballarat.

31  
32 Stopping there, was that something that came to your  
33 attention?

34 A. No, never.

35  
36 Q. Did you have anything to do with the Provincial of the  
37 relevant section of the Christian Brothers that was  
38 responsible for the school?

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

42  
43 Q. I'll come back to the name of the Provincial, I think  
44 it might have changed over time --

45 A. Because Provincials change and I might be thinking of  
46 someone in a different period.

47

1 Q. Perhaps if we could go to tab 9 of the statements  
2 bundle.  
3 A. What I have is 1931 at Geelong.  
4  
5 Q. Yes, it's tab 9 of the statements bundle. That's a  
6 statement of [BAI]. You will see on the list who [BAI] is.  
7 Is that a name that's familiar to you?  
8 A. No. I do know [BAI]. No, it's not.  
9  
10 Q. Take that statement down. There was a St Paul's  
11 Technical School that operated in and around Ballarat?  
12 A. Yes.  
13  
14 Q. You're aware of that school?  
15 A. Yes, in Central Ballarat.  
16  
17 Q. Who operated that school; was it a Catholic School?  
18 A. A Catholic Christian Brothers School, Technical  
19 School.  
20  
21 Q. If I can take you to tab 175, which should be in the  
22 documents. This is again a report from Mr O'Connor, and  
23 this is dated 1997, and if we go to page 4, if we scroll  
24 down to the heading, "St Paul's Technical School,  
25 Ballarat", there's reference there to Brother Scott who was  
26 a principal in 1973-1974. Then scrolling down further,  
27 there's reference to Brother Scott recalling taking a group  
28 of boys to Mount Cole, and Brother Dowlan accompanying  
29 them, and when the boys returned to school Brother Scott  
30 recalled that there were rumours that Brother Dowlan "had  
31 played funny buggers" while on the camp and then he didn't  
32 invite him again.  
33  
34 Now, did that come to your attention?  
35 A. No.  
36  
37 Q. Just by reference to the various documents I've taken  
38 you to, including statements, Cardinal, it seems, doesn't  
39 it, that there was knowledge around Ballarat East about the  
40 offending of a number of Brothers; that's right?  
41 A. Yes, there was some knowledge; you've demonstrated  
42 that.  
43  
44 Q. The knowledge was held by a range of people: there  
45 were students who had the knowledge, you'd agree with that?  
46 A. Some students, yes.  
47

1 Q. There was --  
2 A. Are we talking about St Pat's College or Ballarat  
3 East, or the whole of Ballarat?  
4  
5 Q. We're talking about the Christian Brothers, which is  
6 both St Alipius's teachers and St Pat's in the running as  
7 well as being teachers?  
8 A. And St Paul's.  
9  
10 Q. And St Paul's. There were some students who knew;  
11 that's right?  
12 A. That's correct.  
13  
14 MR DUGGAN: Your Honour, I'd ask Counsel Assisting to be  
15 clear about knowledge of what exactly, so there's no  
16 mistake about it.  
17  
18 THE CHAIR: I think it's clear, but Ms Furness will make  
19 it even clearer.  
20  
21 MR DUGGAN: Thank you, Your Honour.  
22  
23 MS FURNESS: Q. The question was, knowledge about the  
24 offending of a number of Brothers; you understand I mean  
25 that to be sexual offending, don't you, Cardinal?  
26 A. I do.  
27  
28 Q. And so, there were some students who were aware of it?  
29 A. That is - the evidence shows that.  
30  
31 Q. There are one or more teachers aware of it?  
32 A. The evidence shows that.  
33  
34 Q. There was the principal of the St Paul's Technical  
35 School?  
36 A. That's correct.  
37  
38 Q. There was the principal of the St Pat's School,  
39 Brother Nangle?  
40 A. Yes, that seems to be so.  
41  
42 Q. There were a number of parents who knew what was going  
43 on?  
44 A. Yes, I think the evidence shows there are - some  
45 parents certainly knew.  
46  
47 Q. And there's evidence that Bishop Mulkearns was also

1 aware, isn't there?  
2 A. Of these Christian Brothers matters?  
3  
4 Q. Yes.  
5 A. I don't think you put that to me.  
6  
7 Q. I'll show you the document that's in relation to --  
8 A. I don't intend to dispute it, I just - I couldn't cite  
9 it.  
10  
11 Q. Certainly, I'll get you the reference to that. From  
12 the material I've taken you to, you'd agree, would you,  
13 that the knowledge of the sexual offending by Christian  
14 Brothers at St Alipius School and St Pat's School was known  
15 by a significant number in the community; would you agree  
16 with that?  
17 A. I would agree that it was known to all the people whom  
18 you've mentioned and they do constitute a significant  
19 number.  
20  
21 Q. Thank you. If I can take you to the principal Brother  
22 Nangle's statement, I think it's behind tab 9 of something  
23 relevant. He was the principal that you remember from the  
24 time you were --  
25 A. Yes, I do.  
26  
27 Q. Do you have that in front of you?  
28 A. I do, thank you.  
29  
30 Q. He refers, in paragraph 15, to his role as Superior of  
31 the Ballarat community in 1973-1978, and also his role,  
32 further down the page, as the role of headmaster of  
33 St Pat's College?  
34 A. That's correct.  
35  
36 Q. He refers, at paragraph 54, to having gone to see  
37 Bishop Mulkearns and telling him what had happened. If we  
38 can scroll up to paragraph 50 to learn what had happened,  
39 he there refers to:  
40  
41 ... one of the lay teachers at the college,  
42 Peter Farley, came to see me in a very  
43 agitated state.  
44  
45 Because he'd seen [BWX], I think you know who [BWX]  
46 is, "on his bed with two boarders".  
47

1           Scrolling down so we've got paragraph 52 on the  
2 screen --  
3 A. I'm just making sure that I've got [BWX] correct.  
4  
5 Q. Certainly. Can you find [BWX] on your list?  
6 A. Yes, yes, I have, thank you.  
7  
8 Q. Brother Nangle said he went to Melbourne to see the  
9 Provincial, Brother Naughtin; that was the name I think we  
10 were both struggling with before, Cardinal?  
11 A. That is correct.  
12  
13 Q. And Brother Naughtin arranged for [BWX] to be taken  
14 out of the college, and then further down, paragraph 54,  
15 Brother Nangle went to see Bishop Mulkearns and told him  
16 what had happened. Do you see that?  
17 A. Yes.  
18  
19 Q. From that statement of Brother Nangle, it's clear,  
20 isn't it, that the Provincial at that time, Brother  
21 Naughtin, knew of a complaint of sexual misconduct by  
22 [BWX]?  
23 A. That is correct.  
24  
25 Q. As did Bishop Mulkearns?  
26 A. That is correct.  
27  
28 Q. Turning to a different topic. Perhaps that volume can  
29 be taken away. Turning to Gerald Ridsdale, I think you  
30 understand that Gerald Ridsdale was the assistant priest at  
31 Mildura from 1964-1966; were you aware of that?  
32 A. Yes. But I would have needed to be reminded of  
33 the years.  
34  
35 Q. He was then assistant priest at Swan Hill from  
36 1966-1969?  
37 A. Yes.  
38  
39 Q. So he preceded you, but there was one assistant priest  
40 between you and Ridsdale; is that your recollection?  
41 A. In Swan Hill?  
42  
43 Q. Yes.  
44 A. Yes.  
45  
46 Q. Did anything come to your attention when you were in  
47 Swan Hill about Father Ridsdale and innuendo, gossip,



1           rumours, about sexual misconduct with children?  
2           A.    No.  
3  
4           Q.    No rumours about him at all?  
5           A.    No rumours of sexual misconduct.  
6  
7           Q.    When did you first come to know Ridsdale?  
8           A.    He was ahead of me at school, but years ahead. We  
9           never studied together in the same seminary. When I came  
10          back to Australia, I would have known him as a brother  
11          priest and someone whom I had met previously because we'd  
12          both grown up in Ballarat.  
13  
14          Q.    So you knew each other's families?  
15          A.    No, I didn't know his family; I came to know his  
16          brother quite well, who did a lot of work for us at  
17          Aquinas.  
18  
19          Q.    Was he a builder or something similar?  
20          A.    Yes, yes, carpenter.  
21  
22          Q.    He, that is Ridsdale, was appointed assistant priest  
23          of Ballarat East in January 1972; that was while you were  
24          still at Swan Hill?  
25          A.    I would have thought he might have gone there earlier,  
26          but he was certainly there in 1972.  
27  
28          Q.    You came to be assistant priest at Ballarat East  
29          in January 1973?  
30          A.    I did.  
31  
32          Q.    You lived together in the presbytery, from 1973 --  
33          A.    Yes --  
34  
35          Q.    I beg your pardon.  
36          A.    We were there together for nine or 10 months.  
37  
38          Q.    Who else lived there with you at the time?  
39          A.    Monsignor McMahon, and Bill O'Connell might have been  
40          there for one of those two years, Father Bill O'Connell.  
41  
42          Q.    Thank you. What about Father O'Toole? He was there  
43          for a while too, wasn't he?  
44          A.    Yes, he replaced Ridsdale.  
45  
46          Q.    Ridsdale was also the chaplain at St Alipius at the  
47          time; is that right?

1 A. At the schools?  
2  
3 Q. Yes.  
4 A. Parish schools?  
5  
6 Q. Yes.  
7 A. So I believe.  
8  
9 Q. In your role as the Vicar for Education, did you have  
10 anything to do with the chaplains at the schools?  
11 A. Very little, if anything.  
12  
13 Q. You didn't have any entitlement to question the  
14 appointment or otherwise of chaplains?  
15 A. I didn't have any entitlement and I can't remember the  
16 issue ever being raised with me. But, once again, I was  
17 not the director of education.  
18  
19 Q. When you were at Ballarat East at the St Alipius  
20 Presbytery, was it common for boys, altar boys or other  
21 boys, to be taken for drives by the assistant priest or  
22 parish priest?  
23 A. It wasn't common.  
24  
25 Q. Was there a parish car?  
26 A. Each priest would have a car, or did have a car.  
27  
28 Q. So it wasn't common, but it happened from time to  
29 time, that assistant priests or parish priests would drive  
30 boys for whatever reason in the car?  
31 A. Perhaps as altar servers, yes.  
32  
33 Q. Was it common at the time for priests or parish  
34 priests or assistant priests to take boys away on camps,  
35 overnight camps and the like?  
36 A. That was unusual, but I had heard that Ridsdale had  
37 done or did do that with groups of boys.  
38  
39 Q. Was he the only one in the presbytery to do that?  
40 A. I believe so.  
41  
42 Q. Did that make it stand out as unusual to you?  
43 A. Yes, unusual, but not improper because I - to the  
44 extent I thought about it, I thought with a big group of  
45 boys that would prevent wrongdoing, or it was a useful  
46 precaution.  
47

1 Q. So, were you thinking of wrongdoing at this time?  
2 A. No, not particularly. I just thought it would have  
3 been imprudent to do otherwise.  
4  
5 Q. And imprudent because, if a priest was one-on-one with  
6 a child, there could be an abusive situation; is that why  
7 it was imprudent?  
8 A. That is certainly correct, and it was also capable of  
9 provoking gossip that might or might not be justified.  
10  
11 Q. You were conscious of this in 1973 because of the  
12 experience with Monsignor Day, weren't you?  
13 A. I wouldn't have put the two things necessarily  
14 together; I think it was a basic priestly and human  
15 prudence, but certainly Day's activities would have been  
16 one factor in the background.  
17  
18 Q. If that was, and I think you've said it most likely  
19 was, the first occasion on which you knew about a priest  
20 sexually misconducting himself with children, it would make  
21 you, I take it, alert to the conduct of other priests in  
22 your area?  
23 A. That we weren't alert in those ways anything like the  
24 way we are alert today.  
25  
26 Q. No, but --  
27 A. Day's behaviour was seen as completely unusual and  
28 aberrant.  
29  
30 Q. Do you know whether within the Diocese, after  
31 Monsignor Day's conduct became public, that there was any  
32 work done by Bishop Mulkearns or those who advised him  
33 about trying to determine whether this was aberrant or  
34 indeed there was something more to it?  
35 A. I'm not aware of any such activity.  
36  
37 Q. Was it something that was raised at any Consultor  
38 meeting you were present at?  
39 A. Well, I wasn't a Consultor until 1977 and --  
40  
41 Q. No, I understand that.  
42 A. -- I don't think the matter was ever raised in the  
43 terms in which you are describing it.  
44  
45 Q. I take it, however, that because of the Monsignor Day  
46 scandal, child sexual abuse was at least on your radar?  
47 A. It was at least on the radar, that's for sure.

1  
2 Q. Did you know Father Tom Brophy; he was I think  
3 assistant priest at Warrnambool at some stage?  
4 A. I did know Father Tom Brophy.  
5  
6 Q. You did?  
7 A. There are two Fathers Tom Brophys; this is the one who  
8 died early on, I think he was at Warrnambool. There's  
9 still a Father Tom Brophy in the Diocese.  
10  
11 Q. Thank you. If I can show you tab, what I have as 6,  
12 tab 29. I'm sorry, Cardinal, there are so many tender  
13 bundles, it's difficult to be precise as to which one. You  
14 see that statement on the screen from [BWA]? I beg your  
15 pardon, do you have that in front of you?  
16 A. I do.  
17  
18 Q. Now, if you have a look at the list, do you see who  
19 [BWA] is?  
20 A. I do.  
21  
22 Q. Do you know that name?  
23 A. No, I don't.  
24  
25 Q. If we can scroll down, you see the heading, "Father  
26 Gerald Ridsdale".  
27 A. I do.  
28  
29 Q. He refers to when Ridsdale arrived in Warrnambool, and  
30 that Monsignor Fiscalini was the parish priest at the time.  
31 A. I can't see the reference to Fiscalini, but I can see  
32 reference - oh, yes, I do.  
33  
34 Q. Do you see that?  
35 A. Yes, I do.  
36  
37 Q. Monsignor Fiscalini was somebody you knew?  
38 A. Yes, he was a Ballarat person, much, much older than  
39 myself. He was - it would be overstating it to say he was  
40 a family friend, but my mother, who was a very strong  
41 Catholic, admired him very much.  
42  
43 Q. You will recall that Monsignor Fiscalini was a  
44 Consultor at the time when Monsignor Day's conduct first  
45 came up and then secondly when he was moved to Timboon; you  
46 remember that?  
47 A. I do.

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Q. If we can then look at paragraph 6, [BWA] is telling us that Ridsdale sexually abused him for two years when he was 14 and 15.

A. Yes.

Q. Then, going to paragraph 8, he was the chaplain of the Christian Brothers College at the time.

A. That's right.

Q. Turning down that page, he explains the impact of the assault on him and then, down to paragraph 14, he refers to Father Tom Brophy as a priest in Warrnambool from 1972 to 1974. Does that help you as to which Father Brophy it was?

A. It does. Yes, this man died suddenly some years later, and I see the reference here to the witness's suffering, it's terrible, and he's not alone; there were many others suffered in a similarly terrible way and I deeply regret that.

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

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

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

A. Yes.

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

A. Absolutely.

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

A. Mm-hmm. Yes.

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

1 A. That's correct.  
2  
3 Q. Turning over to paragraph 27, he's then referring to  
4 contacting Father Finnigan, and you can assume that this  
5 contact was in 1989. Just staying with Father Finnigan, he  
6 also was somebody you knew at this time?  
7 A. Yes, I'd known him for many years; he was and is a  
8 friend.  
9  
10 Q. There's a reference to Father Torpy - now, that's Dan  
11 Torpy who you indicated earlier you were aware of when he  
12 was at Mildura?  
13 A. Well, I don't know whether I was aware of him being at  
14 Mildura, but I'd known him for a long time and you have  
15 since confirmed that he was at Mildura.  
16  
17 Q. When did you understand that Father Torpy, perhaps  
18 then Mr Torpy, had taken a role of counselling priests and  
19 religious for the church?  
20 A. When he came back from completing his course here in  
21 Rome, and I'm not quite sure when that might have been,  
22 plus or minus 1980; I'm not sure.  
23  
24 Q. Were you aware, before he came back from completing  
25 his course, that there were services available to treat or  
26 counsel or in some way engage with offending priests and  
27 religious?  
28 A. There wasn't too much in Australia. There were  
29 individual priests who either - psychologists, possibly  
30 psychiatrists or - I don't think we had any institutions  
31 even for alcoholism.  
32  
33 Q. Were you ever in a position to refer a priest or  
34 perhaps a religious to treatment of this sort?  
35 A. I'm just trying to think of my time in Sydney and  
36 Melbourne if I did refer priests to such an institution. I  
37 don't think I did - pardon?  
38  
39 Q. I beg your pardon? I'm sorry, did you hear a sound?  
40 A. I did.  
41  
42 Q. Perhaps if I can just come back to your answer. You  
43 said you were trying to think of your time in Sydney and  
44 Melbourne and if you did refer priests to such an  
45 institution, you don't think you did; is that right?  
46 A. I'd have to take that on notice because we did set up  
47 a facility where priests, after they had been dealt with

1 either through Towards Healing or the Melbourne Response,  
2 where they could go for therapy of some sort. We certainly  
3 did set up such an institution and it's highly likely that  
4 some of the priests who went through the procedures then  
5 went onto that.  
6

7 Q. If I ask you to focus your attention on the period  
8 before you became Auxiliary Bishop in Melbourne in 1987,  
9 were you in a position to refer a priest or religious to  
10 treatment?

11 A. No, I would have no such capacity.  
12

13 MS FURNESS: Your Honour, I note the time.  
14

15 THE CHAIR: Very well, Cardinal, we'll adjourn now until  
16 the same time tomorrow.  
17

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