



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

**PUBLIC HEARING TO HEAR
THE EVIDENCE OF RETIRED BISHOP GEOFFREY ROBINSON**

CASE STUDY 31

OPENING BY SENIOR COUNSEL ASSISTING

1. This is the thirty first case study the subject of a public hearing. Its purpose is to hear the evidence of retired Bishop Geoffrey Robinson. Bishop Robinson's evidence is expected to canvass his experiences as a priest in the 1970s, as an auxiliary Bishop in the Archdiocese of Sydney for two decades and his involvement in the development of the more recent approach of the Catholic Church to child sexual abuse by its clergy and religious.
2. There will be no submissions following Bishop Robinson's evidence. Instead, his evidence will be relevant to the Royal Commission's broader consideration of the response of the Catholic Church to matters of child sexual abuse by its clergy and religious. This broader consideration will likely be the subject of a case study in early 2017. Submissions will follow from that case study.

3. Bishop Robinson was ordained as a priest of the Archdiocese of Sydney in December 1960. He later taught canon law and was the President of the Canon Law Society of Australia and New Zealand. Bishop Robinson was appointed Auxiliary Bishop in the Archdiocese of Sydney in 1984 and held that position until July 2004. Bishop Robinson was a member of the Australian Catholic Bishops Conference, which I will refer to as the Conference during that time.
4. He was also a member of the Archdiocese of Sydney College of Consultors from December 1985 initially under Archbishop Clancy.
5. Bishop Robinson is expected to give evidence of his knowledge and experience of how the Archdiocese of Sydney handled complaints and concerns about child sexual abuse by its clergy in the 1970s and beyond.
6. Bishop Robinson was a member of the Conference when it established the Special Issues Committee in 1988. Its purpose was to develop a protocol to guide Catholic Church authorities' responses when an accusation was made against a priest or religious of criminal behaviour. The Committee was also charged with identifying treatment options and monitoring all legal proceedings involving a priest or religious. Bishop Robinson was not a member of that Committee.
7. The Special Issues Committee was chaired for the first two years by Bishop Mulkearns, the Bishop of Ballarat. The first protocol developed by the Committee was approved in principle by the Conference in May 1990 and various amendments were made resulting in what has become known as the 1992 Protocol.

8. Further consultation took place following the adoption of the 1992 Protocol and draft principles were developed in late 1993.
9. Bishop Robinson is expected to give evidence that he felt an increasing unease that the Committee did not seem to be producing the protocols the Church needed. In May 1994, he was asked to be a member of the Bishops Committee for Professional Standards, the successor to the Special Issues Committee.
10. Bishop Robinson understood he had a special personal mandate from the leaders of the Conference to accelerate the work of responding to child sexual abuse occurring within the Catholic Church.
11. His first work was to draft a statement of principles and a revised protocol.
12. During the development of these principles, a number of matters caused significant debate within the church. They included the return to ministry of priests or religious who had been convicted of or had admitted to child sexual abuse, reporting to secular authorities, and the emphasis which should be placed on victims and the rights and responsibilities of offenders.
13. He is expected to give evidence about that time.
14. He was a member of the Bishops Committee for some years and for six years was co-chair of the National Committee for Professional Standards, which was successor to the Bishops Committee. That National Committee was established at the same time *Towards Healing* was approved for implementation in March 1997.

15. *Towards Healing* has been considered in earlier case studies. Its stated intent is to give individuals the opportunity to tell their story to somebody in authority in the Church, receive an apology and be offered pastoral care and reparation.
16. Bishop Robinson is expected to say that before *Towards Healing* was finalised and made public, 'the Archbishop of Melbourne, the largest diocese in the country, suddenly and out of nowhere announced that he was setting up a different process in his diocese. This disconcerted everyone for it would have helped us greatly if we had all worked together and been seen to be working together'.
17. Under his leadership, the National Committee for Professional Standards created and subsequently reviewed and amended *Towards Healing*.
18. Bishop Robinson has published books and papers on the issue of prevention of future abuse and he is expected to provide his opinions on issues such as obligatory celibacy, the absence of women from key positions of influence in the Church, professionalism among priests and religious and the role of the confessional.
19. During his time on the Bishops Committee for Professional Standards, there was agreement to the establishment of a national therapy program for priests and religious. Ultimately in 1997 Encompass Australasia began operations. Bishop Robinson will give evidence about the Encompass including its response to a summons from the police to produce documents about clients.

20. Bishop Robinson is also expected to give evidence about the role of canon law in relation to child sexual abuse by clergy and religious.
21. Throughout its long history, the Catholic Church has repeatedly condemned the sexual abuse of children, including by clerics. Relevant provisions since the beginning of the 20th century include:
 - In 1917, Pope Benedict XV promulgated the first Code of Canon Law. It created a number of canonical crimes, or 'delicts', including adultery, debauchery, sodomy, bestiality and the sexual abuse of children. It also provided for clerics accused of such crimes to be tried before a canonical court.
 - In 1922, Pope Pius XI issued the secret instruction which came to be known as *Crimen Sollicitationis*. It placed cases of soliciting in the confessional, homosexuality, bestiality and child sexual abuse by priests within the jurisdiction of the Holy Office and imposed the 'secret of the Holy Office' on all information obtained during canonical inquiries and trials of such cases. The secret of the Holy Office was a permanent silence that bound not only the bishop and those involved in the canonical inquiries and trials, but victims and witnesses who were sworn to observe the secret, on pain of automatic excommunication that could only be lifted by the pope personally. In dealing with clergy accused of any of the 'delicts' covered by *Crimen Sollicitationis*, bishops were required to take a pastoral and therapeutic approach. Dismissal was only available in 'more serious cases' where there was no possibility of reform. *Crimen*

Sollicitationis was reissued in 1962 by Pope John XXIII and expanded to cover priests who were members of religious orders.

- In 1971, under Pope Paul VI, the Congregation of the Doctrine of the Faith issued an instruction that bishops could petition the Congregation for an ‘administrative laicisation’ or dismissal of a priest for living a ‘depraved life’, which would have included the sexual abuse of children.
- In 1974, Pope Paul VI issued an instruction called *Secreta Continere*. It changed the name of the ‘secret of the Holy Office’ to the ‘pontifical secret’, and expanded it to cover ‘delicts against faith and morals’, including child sexual abuse, by clergy, religious brothers and sisters, and lay persons. It further expanded the strictest secrecy to cover not only the information obtained through a canonical inquiry and trial but also the allegation itself. *Secreta Continere* has remained in force ever since.
- In 1980, Pope John Paul II abolished ‘administrative laicisation’. The only method now available under canon law to dismiss a priest from the priesthood was through judicial trial. Only the accused priest could voluntarily apply for laicisation.
- In 1983, Pope John Paul II issued a revised Code of Canon Law which incorporated the pastoral and therapeutic approach to clergy sexual abuse first introduced in *Crimen Sollicitationis*, thus making it more difficult for local bishops to permanently remove clergy guilty of child sexual abuse. While *Crimen Sollicitationis* was in force there had been no limitation period for bringing child sex abuse cases. Now, under the 1983 Code, the limitation period became five years from the date of the

- incident, as originally provided for under the 1917 Code. The 1974 instruction *Secreta Continere* remained in force, meaning that the pontifical secret still applied to child sex abuse cases.
22. Bishop Robinson had various dealings with the Vatican particularly from 1996 until his retirement in July 2004 in relation to child sexual abuse and canon law.
 23. In 1996, he told an international conference on sexual abuse that he was not satisfied with the level of support and assistance the Church in Australia was receiving from Rome on the issue of sexual abuse by the clergy and religious. The Apostolic Nuncio wrote to him in terms Bishop Robinson considered condemnatory. Bishop Robinson is expected to give evidence about that correspondence.
 24. In 1999, Bishop Robinson agitated for a meeting of Bishops from English-speaking countries at the Vatican on the theme of clerical sexual abuse. The Secretariat of State decided to hold such a meeting over three days in April 2000. Two bishops from each country's bishops conference were invited to present a 25 minute synthesis covering the previous five years and providing statistics of accusations and outcomes under civil and canon law and the proportion of those convicted as against total numbers of clergy. The purpose was said to be to provide concrete suggestions to the Pope. Bishop Robinson and Bishop Philip Wilson, then the Bishop of Wollongong, attended from the Australian Catholic Bishops Conference.
 25. Bishop Robinson will give evidence about the information provided by the Australian Catholic Bishops Conference to the meeting and his personal

observations of how the meeting was conducted and what it achieved. The conflict between canon law and civil law was a theme of the Australian report.

26. Bishop Robinson observed that the Roman authorities' level of understanding was 'a long way behind' and that most in Rome still saw the problem as a moral one. He noted an overriding concern to preserve existing legal processes. The obligations of the Church towards victims tended not to be considered, he observed. He quoted from a document prepared by the Congregation of the Doctrine of the Faith:

The Church cannot let itself be influenced by public opinion, at times deliberately stirred up, in order to adapt itself to the mentality and way of acting of the secular world.

27. On 30 April 2001, Pope John Paul II issued a personal decree, known as a *motu proprio*, which directed that after carrying out a preliminary investigation, if the local ordinary had at least probable knowledge that the allegation of sexual abuse of minors under 18 years of age was true, he was to refer the case to the Congregation of the Doctrine of the Faith which would give further instructions about how each case was to proceed.
28. The *motu proprio* extended the limitation period for bringing cases to 10 years from the victim's 18th birthday, and reaffirmed that the pontifical secret still applied.
29. In Australia in November 2002, the National Committee for Professional Standards carried a motion that the bishops and congregational leaders re-commit to *Towards Healing* as the normal means of responding to

complaints of abuse. That motion included where a cleric strongly denies the allegations then on a case by case basis the use of the canonical process was considered. In those cases where it was decided to commence a canonical process, the *Towards Healing* process would provide the preliminary investigation under the relevant canons.

30. This was not consistent with the 2001 *motu proprio*.
31. In 2010, Pope Benedict XVI revised the *motu proprio* so that a priest should be punished according to the gravity of his crime, not excluding dismissal or deposition from the priesthood. It further extended the limitation period to 20 years after the victim's 18th birthday, and again reaffirms that clergy child sex abuse cases are covered by the pontifical secret.
32. On 12 April 2010, the Congregation of the Doctrine of the Faith issued a document entitled 'A Guide to Understanding Basic Congregation of the Doctrine of the Faith Procedures concerning Sexual Abuse Allegations', which stated that local ordinaries should comply with civil laws requiring the reporting of child sexual abuse, but only in states which have such laws.
33. In 2011, the Congregation of the Doctrine of the Faith asked each bishops' conference including the Australian Catholic Bishops Conference to prepare and submit national guidelines to assist member bishops to follow clear and co-ordinated procedures for dealing with abuse of minors by clergy. In May 2012, the Australian Catholic Bishops Conference provided the Congregation of the Doctrine of the Faith with the 'Australian Catholic Church Guidelines'.
34. In February 2013, the Apostolic Nuncio wrote on behalf of the Congregation to the Chair of the Australian Catholic Bishops Conference and provided

observations about the Australian Catholic Church Guidelines. The Congregation observed that there is a requirement that all accusations of sexual abuse of a minor be forwarded to the Congregation and that it is the Congregation which decides how each case is to proceed. The Congregation also made observations to the effect that the existing detailed procedures for assessing allegations of child sexual abuse which are outlined in *Towards Healing*, do not apply to ordained clergy. Further that while the bishop or superior may discuss future options with a cleric or religious who has admitted to or been found guilty of child sexual abuse, ultimately the final decision rests with the Congregation of the Doctrine of the Faith.

35. These matters will be the subject of evidence.

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