

ROYAL COMMISSION INTO INSTITUTIONAL
RESPONSES TO CHILD SEXUAL ABUSE

Public Hearing - Case Study 28
(Day 80)

Ballarat Magistrates' Court,
100 Grenville Street, South Ballarat
Victoria

On Friday, 22 May at 10.00am

Before

The Presiding Member: Justice Peter McClellan AM

Commissioner: Justice Jennifer Ann Coate
Mr Andrew Murray

Counsel Assisting: Gail Furness

1 THE CHAIR: Yes, Ms Furness.
2
3 MS FURNESS: Thank you, Your Honour. Brother Peter Clinch
4 is in the witness box and he needs to be sworn.
5
6 <BROTHER PETER CLINCH, sworn: [10.03am]
7
8 <EXAMINATION BY MS FURNESS:
9
10 MS FURNESS: Q. Your full name, for the Royal
11 Commission?
12 A. Peter Bernard Clinch.
13
14 Q. And your occupation?
15 A. I am a qualified teacher and Christian Brother.
16
17 Q. You've made a statement dated 12 May 2015. The
18 contents of that statement are true and correct?
19 A. Yes, they are.
20
21 MS FURNESS: I tender that statement.
22
23 **EXHIBIT #28-27 STATEMENT OF PETER BERNARD CLINCH DATED**
24 **12/05/2015**
25
26 Q. I understand from your statement that you, since
27 25 July last year, have held the position of Province
28 Leader of Christian Brothers Oceania Province?
29 A. Correct.
30
31 Q. What does the Oceania Province comprise?
32 A. The Oceania Province is the countries of Australia,
33 New Zealand, Papua New Guinea, Timor-Leste and the
34 Philippines.
35
36 Q. How many brothers operate within the province that you
37 head?
38 A. There are approximately 358 Brothers.
39
40 Q. Has that decreased over time?
41 A. Certainly has, and we only had a death of a Brother
42 yesterday, and the age profile is high, and in my term of
43 office I would expect maybe fewer than another 50 to have
44 died.
45
46 Q. What is your term of office?
47 A. I have a six year appointment and that will conclude

1 in 2020.

2

3 Q. How were you appointed to the position?

4 A. I am appointed, it's not an election; I am appointed
5 by the Congregation Leader and that Congregation Leader is
6 in Rome. Currently it's a Canadian Brother by the name of
7 Hugh O'Neill. My name was forwarded by - our province has
8 an Oceania Province gathering, we call it a chapter, and
9 names are raised at that chapter, and then the Brothers
10 vote and they are sealed, private confidentially, and then
11 sent to Rome and then Rome appoints.

12

13 Q. So, was it the case that your province only put
14 forward one name, which was yours?

15 A. No, I don't know what happened really, so --

16

17 Q. You didn't vote?

18 A. Sorry?

19

20 Q. You didn't participate in the process, which put
21 forward your name?

22 A. Oh, yes. Well, I can explain a bit, might help to
23 explain the process. In March last year 2014 we had a
24 congregation chapter in Nairobi, that's a worldwide meeting
25 conference, and Oceania Province, because of our numbers,
26 could have 10 representatives at that meeting. So, there
27 was a vote from our Brothers across Oceania, and I was one
28 of the 10. So you knew that you were probably up there.

29

30 And then, when we had our return from Nairobi, we had
31 our province chapter in Brisbane and then further elections
32 were held of who would be the Province Leader, deputy and
33 team members, and those votes were then put in a sealed
34 envelope and sent to Rome. Rome examines what they were,
35 and when I got a phone call from Hugh O'Neill, he said to
36 me, "You were the clear preference of the Brothers to be
37 Province Leader. Do you accept that?"

38

39 Q. Do they give reasons?

40 A. The Brothers?

41

42 Q. Yes?

43 A. Before the vote happens we have great discernment and
44 discussion, and yeah, you hear it, the good and the bad.
45 But when the Brothers vote, they just vote like electoral
46 voting here, they don't give the reasons.

47

1 Q. In your statement, you say that the Oceania Province
2 was created in 2007. Was that because of dwindling numbers
3 and it need to be larger to make it administratively
4 worthwhile?

5 A. Yeah, that would be a good summary, yes.

6
7 Q. You were, from 1996 to 2007, a member of the Province
8 Leadership Team for the St Patrick's Province; that's
9 right?

10 A. Yes, correct.

11
12 Q. And St Patrick's at the time was Victoria and
13 Tasmania?

14 A. Correct.

15
16 Q. What does the leadership team do, or what did the
17 leadership team do when you were there?

18 A. Well, at the time when I was elected to that, I was
19 also the director of a centre in Melbourne called Edmund
20 Rice Centre Amberley, and Michael Godfrey was the
21 Provincial at the time and he strongly encouraged me to
22 stay at Amberley and continue that role, which I did for
23 most of the first term, of six years. That means I was
24 very part-time of the leadership team; he thought that was
25 better for me, so I attended their weekly meetings and
26 participated in the discussions, and I did what we call
27 visitation of communities and I did some visitations, but
28 my role was somewhat limited in that first year, that first
29 appointment.

30
31 Q. Was the leadership team responsible in any way for
32 professional standards, however it was described in those
33 days?

34 A. Oh, yes, yes. I can't kind of recall, but I would say
35 they were probably on our weekly meeting sheet.

36
37 Q. That is a report from the director or other person in
38 charge of professional standards that were in the areas of
39 Victoria and Tasmania?

40 A. Yes.

41
42 Q. Was it a decision making body in respect of matters of
43 professional standards?

44 A. The leadership team?

45
46 Q. Mmm?

47 A. Yes, it was.

1
2 Q. So, what matters were decided; was it the outcome of a
3 complaint or was it the response of the Brothers to
4 substantiate a complaint?
5 A. Mainly that stayed with the office. What we would
6 have received - I know one I can remember clearly was the
7 costs associated with defending a Brother, that was one
8 that would come to the table and it would be discussed,
9 particularly if there was an appeal.
10
11 Q. What about the outcome for the Brother after a
12 substantiated complaint, in respect of continuing in the
13 Brotherhood?
14 A. Yes, that was always - was raised, not so much whether
15 he remained in the congregation or not I must say. What
16 was raised and often put in place, what we called support
17 groups, supervision groups, and at that time I was on a
18 number of them. So we would have discussed that, who the
19 Brother - did he require some form of supervision, were we
20 still concerned and the appropriate structure.
21
22 Q. What was the process then, between 1996 and 2007, to
23 have a person dispensed from his vows or removed from the
24 congregation?
25 A. My understanding of that the would be, the first stage
26 is, you would request or the Brother could request it
27 himself, which they mainly do, is to go on a period - if a
28 Brother is under annual profession, that means they haven't
29 made their final vows, they can leave at any time, there's
30 no question.
31
32 If a person is finally professed, there's what we call
33 exclaustation, which means a Latin word meaning "leave
34 from the community", so they live outside of the community
35 for a period of time
36
37 Q. Is that imposed upon them or can that be imposed upon
38 them?
39 A. It can be, or can be strongly requested. I don't know
40 if it can be opposed. It gets difficult, if the Brother
41 doesn't want to do it.
42
43 Q. Is there any means by which the congregation in
44 Australia can have a person dispensing their vows or
45 removed from the congregation?
46 A. I have not known of it for the Christian Brothers. I
47 have spoken to some other members' orders, male orders

1 similar to ourselves, and the answer was only recently and
2 the answer I got was, he said it was very difficult because
3 of the requirements of canon law, but it can happen because
4 you can give canonical warnings, and I think it's the third
5 canonical warning, but it would need to go to the level of
6 the congregation in Rome and it would never be supported -
7 I would not have the authority to do that.

8
9 Q. Has it been in your time as a Christian Brother that
10 Rome has made a decision in respect of a Brother that they
11 leave the congregation?

12 A. Not in my time as Province Leader, no. And in my time
13 as a Brother, I know a Brother was strongly recommended to
14 go on exclaustation; he agreed to that, that means it's a
15 period of about three years, and then he was thinking of
16 returning to the congregation and that was not permitted,
17 and we said, no, we want you to remain and he was dispensed
18 of his vows. That's the only occasion I know of.

19
20 Q. Who was that?

21 A. Ted Dowlan.

22
23 Q. You were a Novice in February 1972?

24 A. Correct.

25
26 Q. And you were a Novice for a year until which you made
27 your first profession?

28 A. Correct.

29
30 Q. Is it the case that you go from being a Novice to a
31 Novitiate?

32 A. You start as a Novice and once you enter the Novitiate
33 formally, and I did that in February of 1972, you are given
34 the title of "Brother" but you were not under vows.

35
36 Q. When did you take vows?

37 A. My first vows was in early 1973.

38
39 Q. In 1972, when you became a Novice, and in the period
40 of time where you were a Novice until a year later, what
41 were you told about how you were to deal with your vow of
42 chastity and celibacy?

43 A. The vows were treated equally, is my recollection, and
44 celibacy was not given particular highlighting or emphasis.
45 It was explained in the realm that this is our firm
46 commitment to God and it's our way of life, our style of
47 living as a community member living with others in

1 community, and that could be difficult at times. But my
2 understanding and looking back, it was not emphasised.

3

4 Q. Were you given any guidance as to how to manage that
5 difficulty?

6

7 A. For me, those times didn't happen through my
8 Novitiate year. We were pretty energetic and we - other
9 things just took my energy. If I can move, I can know that
10 in later years, when I was in my late 20s it happened when
11 I did some theological studies and pastoral care studies,
12 it was then that I studied my faith in the human life
13 cycle, the stages of growth of Daniel Levinson and a couple
14 of other developmental psychologists, that I became in
15 touch with my feelings of sexuality, the need for
16 integration, the need for mature adult relationships, both
17 male and female, if I was to be an integrated human being,
18 and that was - I call that in my late 20s at the Yarra
19 Theological Union my formation years when I look back now.

19

20 Q. How did you integrate what you learned about adult
21 relationships with the way in which you were living as a
22 Brother?

23

24 A. Just that last bit again?

24

25 Q. How did you integrate what you learned, from those
26 studies about adult relationships, with how you were living
27 as a Brother?

28

29 A. Well, the key area that I learnt, it's a kind of a
30 saying that we've got, that you share from the heart. In
31 our community, I lived in a very rich community setting in
32 those years, because we were all about the same age and we
33 were ready to learn, and we would share about our lives,
34 our struggles, we were encouraged to have a spiritual
35 director, which we did. A spiritual director, you shared
36 it, I called it really like counselling, and I can recall
37 bringing up those feelings of struggle at times. At that
38 time as a whole area you see your friends and my family
39 marrying, having children, so they were some of the, I
40 recall the key issues that came to me and so --

40

41 THE CHAIR: Brother Clinch, I mean no disrespect, but some
42 of those listening to what you're saying probably don't
43 really understand what it is you're saying. Now, we've
44 spoken to some Christian Brothers about their sexuality and
45 their sexual issues through their late adolescence and into
46 their 20s and so on, and they give us a direct picture, for
47 example of the thoughts that they may have had of a sexual

1 nature.

2

3 Now, when you're talking about your struggles, are you
4 talking about struggling with thoughts of a sexual or
5 erotic nature; what are you talking about?

6 A. Well, I think, Your Honour, my struggles were around,
7 is this going to be a life commitment? Is this the
8 lifestyle I want to live? They were my struggles, and then

9 I see my friends I went to school with who I kept in close
10 contact with having families and I went to some of their
11 weddings, so they were the concerns. So, is it my
12 lifestyle that I want to live like this, and it was around
13 that time that, of final profession, taking my final vows,
14 so they were the key areas of struggle.

15

16 Q. Did you have any struggle with sexual thoughts?

17 A. Well, I think I'm a human man, yes, I would have at
18 times, yes.

19

20 Q. So when you're talking about your struggles, are you
21 talking about those sorts of struggles?

22 A. Not really. They came for me more in my mid-life,
23 around 40, and that was when it was strongest in me, rather
24 than at that stage.

25

26 Q. What are the teachings or what are the learnings of
27 the Brothers about how you deal with those sorts of issues
28 in your personal life? Again, I stress, we've spoken
29 already to some Brothers about these issues. What's your
30 perspective on how you deal with those problems when you've
31 taken the vows that you have?

32 A. A key aspect, Your Honour, that I clearly remember,
33 and it's most significant in my life. Again, I've been
34 privileged, I was, as I said to you earlier, it was in my
35 mid-life where the crunch really came to me, and it was the
36 thing whether I stayed in the Brothers or not.

37

38 And I was offered a year in Ireland and it was an
39 intensive formation period, and part of that program, I was
40 offered - or you're encouraged, I should say, to take up
41 counselling, and I took that up and I took it up for
42 a year. During that year, you went to counselling weekly,
43 and in the latter part of the year it was every fortnight,
44 so I think I had something like nearly 30 sessions of
45 counselling, and nothing was unturned in my life, my
46 relationship with my family, my family of origin, my sexual
47 orientation, my sexuality, the energies coping with that

1 and my moving towards final profession, how did I cope.

2

3 So there's a myriad of things and I can remember doing
4 quite an extensive - the therapy was in art therapy, and at
5 the end it was just amazing, she kept all my paintings and
6 they went around and saw a development of my life through
7 that.

8

9 Q. Can you capture for us the basic message as to how a
10 Brother is helped to cope with the sexuality and sexual
11 feelings?

12 A. Well, my first instinct, the Brother has to be in
13 touch with them, has to be aware of them, rather than
14 playing out of them, so I think that's a key thing.
15 Another sign for me is, you need quality community in which
16 you live, and it's not - we say you can share the secrets
17 of your heart, that is kind of a pretty good baseline of
18 which I claim for community life. Some Brothers find that
19 very difficult, to share the secrets of their heart, and I
20 think that's a sign of an immaturity. But in our
21 communities today, I really encourage Brothers, you must
22 share from your heart, and if you can't share as a group,
23 share with one-to-one.

24

25 For myself, it's been, every which I've taken
26 counselling, blocks of counselling, to work through issues
27 on a number of occasions since that Irish year. It might
28 have been only four or five sessions, but when I see the
29 need I would enter into a counselling session. I have
30 regular supervision in my role and I have a spiritual
31 director. So, they're the kind of checks and balances in
32 anyone's life that's needed.

33

34 Q. The concepts of chastity and celibacy, are they
35 different for you?

36 A. The commitment to an ideal way of life, and I
37 understand going back to the early stages of religious life
38 that I belong to, the monastic life, the hermits moved
39 themselves and lived in the desert on their own, and they
40 were chased, and that's evolved into the monastic style,
41 and now the apostolic style of religious life I live, which
42 grew up out of the 18th century for apostolic works, has
43 kept on that monastic style. I still see it as relevant if
44 you're living in community and are in good relationships
45 with others. Priesthood is different.

46

47 Q. Well then, what for you is the difference between the

1 concept of chastity and the concept of celibacy? How
2 should those listening to this discussion understand what
3 you think about those two concepts?

4 A. Well, I've nearly put them together, Your Honour, and
5 I don't often distinguish them. So, chastity would be, you
6 live a community life, you live it faithfully and you live
7 it wholesomely. Celibacy, you have no sexual relationship
8 or a one-to-one relationship, sexuality; a sexual
9 relationship.

10

11 Q. What do you mean, a one-to-one relationship?

12 A. Well, you can still have one-to-one relationships, I
13 take that; it's sexualised, where you have intercourse with
14 another person.

15

16 Q. I'm sorry?

17 A. You would have intercourse with another person,
18 express your love for the person through sexualising that
19 relationship.

20

21 Q. Is that the way, do you think, all Christian Brothers
22 see those concepts, or are there different approaches?

23 A. I honestly can't answer that because I haven't
24 honestly discussed that fully with my fellow Brothers for
25 some time.

26

27 But we would talk about, with each other, healthy
28 relationships, and how do we relate with each other, how do
29 we relate with the wider community, how do I - often I
30 would say to a Brother, how do you relate with women?
31 Because we live in this male dominated community, it's
32 important that there's a wholesome attitude and
33 relationship with women, and that's how we would talk
34 sometimes with some of our men. And on committees we try
35 to have gender equality, and it's a new way for us to be
36 thinking, rather than have a male dominated world.

37

38 Q. As you know, there are many people who will suggest
39 that the problems that this Royal Commission is concerned
40 with have origins in the celibate life that priests and
41 Brothers are required to accept. What's your perspective
42 on that?

43 A. I've heard those and I've read about them and I've
44 read them. Well, what I read, and it is my belief, that I
45 don't believe it's solely that. It could exacerbate it if
46 a person is not suited to the celibate way of life, it can
47 be exacerbated.

1

2 So, we were told in my early years of training, and I
3 still believe it, it's a calling to be a Brother, you have
4 to have a sense of a call to be a competent Brother in the
5 charism of Edmund Rice. But there's also a call and you
6 have to be suited or be able to live with it to the form of
7 chastity. I think it comes to me back, is the ability to
8 have mature adult relationship.

9

10 So those Brothers that I know that have offended,
11 often they have shown signs of immaturity with adults, and
12 it's only in hindsight that I can say that.

13

14 Q. Again, there will be many people who will ask this
15 question, so I will ask it for them: if the vow of celibacy
16 was not a requirement of a Brother, would the Brothers
17 nevertheless be able to fulfil their teaching and other
18 functions in the community?

19 A. Yes, they could. I think they'd fill their
20 ministerial qualities and do it well, and now we as
21 Brothers - I know very few of us are in education or
22 teaching, we are tended into broaden ourselves into the
23 more poorer, marginalised groups of our community. But
24 yes, they could still do that effectively well but it would
25 fundamentally change the nature of living in community and
26 the way of community life. Now, is that good or bad?
27 Well, time will tell.

28

29 Q. That's assuming that change occurred. Time will only
30 tell if change is made, won't it?

31 A. Correct, Your Honour, but what I mean by "change will
32 tell": the Christian Brothers, our average age in Australia
33 is about 75. Our way of life is coming to an end. Whether
34 I like it or not, that's the change that's moving and
35 that's what I mean by that.

36

37 Though the way - young Australians do not see it as an
38 attractive way to come, to live this life of the three
39 vows, but we have many young adults really passionate about
40 the justice issues we're on about and we've got many
41 volunteers who work with us, they're more than happy to
42 stand beside us and call themselves Edmund Rice people, but
43 they are not joining the Christian Brothers.

44

45 Q. So what's the planning for the future to fulfil that
46 community need? Do you have any?

47 A. Obviously, and it's happening now. We're engaging lay

1 collaborators, volunteers, and they are doing an excellent
2 job. As Province Leader one of my joys at the moment,
3 which I need, is to visit some of these ministries and see
4 how productive they are as we stand in solidarity with
5 those who are marginalised.
6

7 Q. So is the picture that we should understand, that the
8 future will effectively be a community contribution from
9 people of Edmund Rice but not necessarily celibate ordained
10 members of the order; is that the way we should see it in
11 the future?

12 A. That's the way I'm seeing it, Your Honour. Some of
13 our Brothers are disappointed that that's the outcome, but
14 I think we haven't had a Novice in Australia and
15 New Zealand, who have stayed with us, for over 25 years.
16 You don't have to study the figures to know what's
17 happening.
18

19 Q. Why do you think it is that young people don't offer
20 themselves for the Brotherhood?

21 A. It's a complex one, but I often talk to them about it.
22 But they admire the Brothers for what we do, they often say
23 that, but they do not see it as an option for them as a way
24 of life, and there would be a general thinking amongst
25 young people that I work with - for example, they wouldn't
26 see attending mass on Sunday as important for them or
27 receiving the sacrament of the church.
28

29 In this context of the Royal Commission, they would be
30 abhorrent to what has happened. I know that I have spoken
31 to groups of young people and say what has happened is
32 awful and abhorrent, but you go by your experience of the
33 Brothers that you've had and you make your decision where
34 you need to stand, and some have moved away from us; a lot
35 have stayed.
36

37 Q. I make the assumption that you talk across the
38 religious orders?

39 A. Say that again, sorry?
40

41 Q. I make the assumption you talk across the religious
42 orders, to those who lead other orders about their future
43 and Brothers, the Marist brothers and so on for example; is
44 that right?

45 A. Well, I've only been 10 months in the job and I'm just
46 meeting these people now, but I will be and I have, outside
47 of this role, I have often. Some of my best friends are in

1 other congregations, so we do share and there would
2 similar - I would say, I suppose it's the ones that I mix
3 with, would have similar opinions as myself.
4

5 MS FURNESS: Q. You referred earlier to the suitability
6 of a person to become a Brother. Was anything done in
7 respect of you, before you took your vows, to determine
8 whether you were suitable?

9 A. The only thing I can - no, not much. But I know, I
10 went to school at a Christian Brothers College at St Kilda,
11 and the Brothers there that I taught, obviously I admired,
12 that's why I wanted to join them, they had to give witness
13 or I think might have had to write a reference that I was
14 suitable, I need a reference from my parish priest at the
15 time, I needed to submit my Baptismal certificate and I
16 needed to have a medical, and a Brother came out and had a
17 meal with my family and I know he had a long conversation
18 with my father, so that's the only ones that I know at that
19 time.
20

21 Q. As you say, there hasn't been a new Novice for
22 25 years, so I take it that the process of screening is not
23 one that you use today?

24 A. I need to correct - not to correct that. In Oceania
25 we do have some Novices but they're from Papua New Guinea
26 and from the Philippines.
27

28 Q. How have you screened those Novices?

29 A. Yes, that was one of the first tasks that we had, I
30 had facing me when we had Novices go to - they go to Africa
31 for their Novitiate. The congregation worldwide has
32 two Novitiates, and they're both situated in Africa,
33 because that's where the majority of new members are coming
34 from.
35

36 We requested that they - well, first of all, the young
37 men that have gone to Tamale in Ghana, they had to live
38 with the Brothers community for two years to start with,
39 and part of that two years they did the normal work and
40 lived with Brothers. They have what we call a mentor or a
41 companion, and they would meet that companion every week,
42 and then we can have a chance to see their suitability,
43 just by living with them, seeing them, seeing if they've
44 got a work ethic, they're serious about being a Brother.
45

46 Once they get to that level we would then have a postulant;
47 that means it's getting a bit more serious, and then

1 towards the end of a postulancy period, which can vary from
2 one to two years, we would have a psychological test. I
3 can't name the one but I know it was in suburban
4 Philippines, they went to a psychologist, the testing was
5 done, and then they take that testing to the director of
6 Novices in Tamale. I asked to see the document and it's up
7 to the individual Novice, is our protocol at the moment,
8 whether he does, but the Brother in the Philippines saw it
9 and read it.

10

11 Q. What are the instructions to the psychologist as to
12 what to test for?

13 A. I know that there - I don't know, to answer that
14 question, I don't know the instructions, other than that
15 it's a set program for those entering religious life of
16 their suitability.

17

18 Q. What's the criteria for suitability?

19 A. The suitability would be, as from, I've explained,
20 that the suitability would be that they can live in
21 community life, they have a suitable attitude towards
22 ministry.

23

24 Another one that we're learning is that they've got
25 family. Usually people that join us in these countries are
26 dependent upon supporting their families, so that's always
27 problematic if they join us. So, if their families need
28 them to physically support them, we encourage them to go
29 and support their families.

30

31 Q. Is the psychologist who does the testing a member of a
32 religious order or clergy?

33 A. I am not aware of that at this stage.

34

35 Q. So you don't know one way or the other?

36 A. I know one was and one wasn't, so I'm not sure about
37 where our person went to in Cebu in the Philippines, but I
38 could certainly find that out.

39

40 Q. Do you accept that, in order to use the results of
41 psychological testing to either determine or become part of
42 a suitability program, that you would want to understand
43 what they were testing for?

44 A. It would be important. My understanding, that the
45 psychological assessment report, they take it with them and
46 the director of Novices would then meet with the
47 prospective Novice, and that would be part of their weekly

1 meeting that they would have with the Novitiate, so that's
2 how the tool is used.

3
4 My understanding at this stage is that the
5 psychological testing, unless it was something very
6 fundamentally wrong, doesn't exclude from that Novitiate.
7 So I know that the three that went from the Philippines
8 this year, we got notification only last week that one is
9 returning, and I have been in touch with the director of
10 Novices while I've been here in Ballarat to discuss that.

11
12 Q. Returning where?

13 A. To the Philippines, returning home. So he's left the
14 Novitiate, they've only been there since February of
15 this year, and he is returning. And he's - it just hasn't
16 worked out.

17
18 Q. You understand that in each state and territory in
19 Australia, there's a process whereby those who work with
20 children are required to undergo a Working with Children
21 Check?

22 A. I am.

23
24 Q. And, at least in respect of some religious and some
25 clergy, they are required to undergo that check if they're
26 working with children?

27 A. Correct.

28
29 Q. What do you do, in respect of those Novices or members
30 of the order within your province who work outside of
31 Australia --

32 A. Sorry?

33
34 Q. Who work outside of Australia, to determine that they
35 are suitable, by reference to the criteria that's used in
36 Australia, to gain a Working with Children Check?

37 A. Yes, in some of the countries of course they're not as
38 developed as Australia. I think of both the Philippines,
39 Timor-Leste and Papua New Guinea.

40
41 I know that we have engaged, nearly for the last
42 10 years, a Dr Pauline Meemeduma, and she is an expert in
43 the child protection area and she has been to three of
44 those countries and put in process - I must say it's an
45 ongoing process of those protocols, and they are strict
46 protocols in the way of child protection and they are
47 including the Brothers community, the Brothers involved,

1 volunteers and any staff that we may employ.

2

3 Q. What is the content of those strict protocols?

4 A. What is the?

5

6 Q. Content of them. To say it is a strict protocol is a
7 description of your view of them, it doesn't tell us what
8 actually is involved in it.

9 A. Right. When I say strict protocols, that can be
10 unpacked at various levels, I admit that. In, I know -
11 I'll take, we call it Communicate Edmund Rice in
12 Timor-Leste. So, it was at my direction because we knew
13 where the Brothers' house - where they were living was
14 surrounded by a pigsty and families and children and we
15 thought it wasn't suitable. So we've asked Pauline to go
16 in and inspect that house and give us a full report of
17 whether it's a suitable place for Brothers to live and
18 particularly with a focus with regard to child protection.

19

20 Q. Is there any requirement or obligation imposed for a
21 criminal record check to be undertaken of anyone who is
22 moving from the Novitiate further in the order?

23 A. From the African Novitiate?

24

25 Q. Outside of Australia?

26 A. Outside of Australia? I'm not aware of that.

27

28 Q. I understand you've provided us with various documents
29 in respect of this statement and earlier, Brother. Have
30 you provided us with the detail of the child protection
31 protocols that you've referred to in your evidence?

32 A. They are still in - part of them would be there, yes,
33 but the ones I am referring to in Timor-Leste, they would
34 still be in draft, and no, I'm pretty sure we haven't.

35

36 Q. Can I ask you to provide those that are in draft and
37 indicate, when you provide them, the stage of the process
38 from becoming draft to final documents?

39 A. Certainly can. I know my colleagues here will take
40 note of that and that will be certainly followed up.

41

42 Q. Thank you. When you were a Novice, were you made
43 aware of the rules for the Brothers in relation to student
44 contact?

45 A. Yes, we were.

46

47 Q. These are the 1932 rules I'm referring to.

1 A. A bit before my time, yes.

2

3 Q. But the 1932 rules were not made known to you?

4 A. Well, they were never referred to as the 1932 rules
5 but we were referred - I clearly remember you were never
6 with a child alone and you never - noli me tangere, I think
7 was the Latin we used to say, do not touch.

8

9 Q. Let me --

10 A. You refresh me, yes.

11

12 Q. -- indicate what the clauses are:

13

14 *Servants, male or female, or boys of a*
15 *residential school, must not be permitted*
16 *to enter into a Brother's room.*

17

18 Was that told to you when you were a Novice?

19 A. Yes.

20

21 Q.

22 *Unless duty or necessity require it, a*
23 *Brother must never be alone with a pupil.*
24 *The Brother should avoid taking a pupil by*
25 *the hand, touch the face or otherwise*
26 *fondling him.*

27

28 Were you told of that?---Yes.

29

30 Q.

31 *Whilst they should cherish a tender*
32 *affection for all their pupils, especially*
33 *the poorest, out of love for our Lord Jesus*
34 *Christ whom they most closely resemble,*
35 *they shall not manifest a particular*
36 *friendship or inclination for certain*
37 *pupils, for such affections are most*
38 *dangerous snares of the devil and might*
39 *easily be followed by fatal consequences*
40 *which would bring dishonor on religion and*
41 *even render the guilty one liable to severe*
42 *penalties under the civil law.*

43

44 A. Well, the latter part of that was not familiar to me,
45 but I know we were always told, you never have favourites,
46 you treat every student the same.

47

1 Q. And you were told that when you joined the Novitiate?
2 A. Yeah, I was - I do remember that, even though it's
3 over 40 years ago. We used to take catechetical classes at
4 the local parish of a Sunday morning once a month, and they
5 were outlined to us very clearly, and I can remember the
6 assistant Novice master bringing us in and really berating
7 us because he heard a Novice swear, and then reiterated our
8 professional stance when we go to catechetics, and those
9 other items were mentioned to us, yes.

10
11 Q. Do you understand that those matters were matters that
12 would have been raised with Novitiates in the decade before
13 your time?

14 A. I don't know, I know my Novitiate, that is on the
15 term, I had a very benevolent compassionate Novice master
16 who I lived with a number of times. I don't know that, I
17 know that some Novitiate masters before and according to
18 the folk law of the Brothers were harsh. So, were they told
19 then? I would assume so but I haven't got any evidence for
20 that.

21
22 Q. Your assumption would be partly based on the fact that
23 these rules had been in place for some decades?

24 A. Oh, yes. If they weren't, they should have, yes.

25
26 Q. Have you had the opportunity to read the Royal
27 Commission's report on the Christian Brothers in Western
28 Australia, what we call Case Study 11?

29 A. I have read parts of it, yes.

30
31 Q. You'll understand from that report that it was found
32 that the first conviction of a Brother for, what I'll
33 broadly describe as child sexual assault offences, was in
34 1919. I wasn't aware, I thought it was in the 30s but I'll
35 take it if that's correct, yes.

36
37 Q. And then, thereafter, every decade until the 60s there
38 was one or more complaint of child sexual abuse that the
39 relevant Province Leadership were aware of. You understand
40 that from the report?

41 A. Could you just repeat that please?

42
43 Q. Certainly. That in every decade after the 1919
44 conviction until the 1960s, there was one or more
45 complaints of child sexual abuse that the relevant Province
46 Leadership were aware of?

47 A. Well, I don't know that. I don't know those facts,

1 but if you say and it's written there, yeah, I'd have to
2 accept.

3

4 Q. You're not aware of that from that report?

5 A. I didn't study it in that detail, no.

6

7 Q. You accept it?

8 A. I can accept what you're saying.

9

10 Q. When was it that you first came to understand that
11 there were an increasing number of complaints of child
12 sexual abuse against members of your order?

13 A. I've got the clear recollection, the date is a bit
14 furry, but I'd say it was around the early 1990s, about
15 1993, and I was in Melbourne at the time, and just seeing
16 the notifications that became very, very public from
17 pages of newspapers and it was just so obvious.

18

19 Q. So it didn't come to your attention as a member of the
20 order, it came to your attention through reading the media?

21 A. That would be correct, or the starkness of it and the
22 numeral, the number, yeah.

23

24 Q. From 1993 to 1999 you were the director of the Edmund
25 Rice Centre in Amberley?

26 A. Correct.

27

28 Q. And you say in your statement that you oversaw the
29 day-to-day operations of the centre as well as running a
30 number of retreats for students and adults at Catholic
31 secondary schools?

32 A. Correct.

33

34 Q. So that was the position you held when you first
35 became aware, through the media, of increasing number of
36 complaints against members of your order?

37 A. Correct.

38

39 Q. What did you do with that knowledge in respect of your
40 then position?

41 A. We spoke to the staff, we had a small staff there, and
42 there was a set of volunteers that would assist us and I
43 spoke to them.

44

45 Q. What did you say to them?

46 A. Well, I asked them what had they read - I can go back.
47 The staff I remember clearly of talking to them and I said,

1 have you got any questions you want to ask of me about what
2 is in the media. There was a fellow there who was our
3 gardener, and he had gone through the Anglican care homes
4 and he spoke at length about it, and of his treatment and
5 how he found it. Then others didn't, they were a bit
6 shell-shocked, and I said, well, we'll need to follow this
7 up, so that was with some of the staff, and I spoke with
8 some staff individually.

9
10 With the volunteers, we came together and I had a
11 similar process with them, and that happened on a number of
12 occasions, and I said, if you're feeling uneasy about this,
13 you need to share it with somebody or remove yourself.

14
15 Q. What did you do to understand what was behind what you
16 were reading in the media in terms of the order?

17 A. Well, I can tell you that at the time I was
18 shell-shocked too and stunned. But I remember at the time,
19 at around this time, because Paul Noonan was - yes, it was
20 Paul who was the Provincial at the time, and he came to me
21 and he came out there and discussed matters with me of this
22 nature and he asked me would I go on, it was a Compass
23 program on the ABC, and I've forgotten the name of the
24 interviewer now, it was a long time ago.

25
26 Q. It might have been Geraldine Doogue in those days.

27 A. No, it wasn't, it was a male. Anyway, I went on that
28 program and I know that Paul and the other Brother that was
29 with me, we had a lot of conversations about that.

30
31 Q. But in order to go on that program, Brother, surely
32 you must have learnt, other than from the media, what in
33 fact was behind these charges that were referred to in the
34 media?

35 A. Yeah, I started to talk about it, particularly with
36 Paul Noonan and the culture within the Brothers that
37 allowed this to happen, and the scandal that it was.
38 Unfortunately at the time it may not have been as victim
39 focused as it is today.

40
41 Q. Just leaving aside the victim focus, wouldn't you have
42 wanted to know where those individuals who were referred to
43 in the media had worked as a Christian Brother, what the
44 structure was, what was known about them at the time, who
45 else was there who may well have known about it? Wouldn't
46 you have wanted to know all of those things?

47 A. I can't recall answering those questions.

1
2 Q. Well, did you ask them?
3 A. No, I don't think I did.
4

5 THE CHAIR: Q. Brother, as you probably know, the
6 evidence that we have received, not only in relation to
7 Brothers who have committed criminal offences, but others,
8 that it's not uncommon to find that the abuse of the child
9 is both sexual and physical; very considerable violence is
10 visited upon children.
11

12 I assume you've reflected upon that behaviour by
13 members of the Christian Brothers. Can you tell us why it
14 happened? What was in the culture that allowed this to
15 happen?

16 A. It's a question, Your Honour, that I've asked in even
17 very recent times as well as back in the 1990s, and there
18 was a recent conversation that I had with a very elderly
19 brother in Brisbane, an 88-year-old, he'll probably be
20 listening and he had a very good insight, he said we lost
21 our way, we lost the charism of Edmund Rice and we came to
22 see reputation of our schools and institutions as
23 number one rather than the service of children, and that
24 physical violence, physical corporal punishment as we
25 softly called it, but it was violence, became nearly a
26 common practice.
27

28 Some, as I only heard during this week, were just
29 beyond any realm of punishment, it was just brutality.
30 Now, that may have been the exception, but the corporal
31 punishment, the use of the strap, was seen as a common way
32 of maintaining discipline within your class, and that
33 became accepted, where I think that was fatally wrong, it
34 should never have become accepted. And this elderly
35 Brother would say, we moved away, we lost sight of whom
36 Edmund Rice, a man of compassion, particularly those who
37 were marginalised - yeah, that's as best I can answer at
38 this stage.
39

40 Q. We've also learned that the place of the Brother or
41 the priest in society was an exalted position. You accept
42 that?

43 A. I do.
44

45 Q. And that that brought power both over children, but
46 also more generally in the community, so that adults
47 wouldn't believe complaint by children that a priest or

1 Brother had abused?

2 A. That's a warped sense of power, but that is true.

3

4 Q. From your perception, is that a cultural issue for the
5 whole church in Australia?

6 A. From my understanding, I can talk for the Christian

7 Brothers, it certainly was, and I'd say for the church

8 generally it is an issue that needs to be ongoingly

9 addressed. In pockets of our church, my observation, it's
10 been addressed well and I suppose it's always ongoing.

11

12 Q. So you're saying to us that the same problem will be
13 found in parts of the church in Australia today?

14 A. I think, yes.

15

16 Q. Do you accept that that carries with it the similar
17 risks that manifested themselves in the Christian Brothers;
18 that is, the power will be abused?

19 A. I'd say it's far less than it was, but there's always
20 the possibility, and for me, abuse doesn't always have to
21 be that sexual abuse we've heard, it can be in various
22 forms of abuse that I have seen; bullying, emotional, other
23 forms of abuse as well. So my belief is that we need to
24 always be in touch with leadership and how it's exercised,
25 and I see that in myself, and I would see leadership within
26 our church needs to be pastoral and it needs to be
27 collaborative. So, I struggle with being called Province
28 Leader; I'd much prefer to be seen I'm a member of the
29 Province Leadership Team. When we have meetings, that's
30 how we operate.

31

32 COMMISSIONER MURRAY: Q. Brother Clinch, just following
33 that line of questioning, in both Case Study 11 and this
34 Case Study we have heard accounts of very cruel and often
35 unlawful treatment of children. Your explanation from the
36 Brother you spoke to, that men lost their way, implies good
37 men who otherwise failed to fulfil their duty. It seems,
38 however, to exhibit men who were unsuited for a christian
39 mission.

40

41 Do you have anything to say about whether there is a
42 pathology exhibited before us with respect to the
43 particular men who have been the subject of victims in
44 survivors' accounts?

45 A. I can say there is a pathology, they're very sick men,
46 and I'd say the environment in which they were living
47 exacerbated that sickness, yeah.

1
2 Q. Would you describe them as unchristian?
3 A. Well, certainly their actions are totally unchristian
4 and are abhorrent to me and abhorrent to the gospel and are
5 abhorrent to the charism of Edmund Rice.
6
7 MS FURNESS: Q. What was the environment you were
8 referring to?
9 A. Say that again please?
10
11 Q. You say the environment in which they were living in
12 exacerbated the sickness. What do you mean by the
13 environment in which they were living?
14 A. Well, there were cases, and I'll just give - it's a
15 balance, like, I know that when I was at school, as I said,
16 I found the Brothers very warm and attractive and they were
17 good to me and that was the impression I had of them.
18
19 But when I joined the congregation at an earlier age,
20 I can recall communities that I would find cold, Brothers
21 living isolated; that means, by isolated, they were not
22 able to engage well with others, they were secretive, and I
23 just found, what happiness did they have in life; that was
24 the impression I had.
25
26 Q. So, by environment, you don't mean the physical
27 environment they were living in, you mean their emotional
28 position?
29 A. I would mean both, because some of the physical
30 housing that Brothers lived in were very primitive, very
31 scarce even for the age they were living.
32
33 Q. Did you become aware of the lack of privacy for
34 children in the dormitories and other places they were
35 living in areas controlled by the Brothers?
36 A. I can rarely say that I visited any of those. I must
37 say, I've never myself been in a boarding school. I can
38 remember people describing their times in boarding school
39 as being that; the big dormitories. I've seen photos of
40 them and the open cubicles for showering and that. Yeah,
41 I'd say it was - I find it hard to know whether it was the
42 norm of the day and other private schools were the same,
43 but just taking the ones I know, I would hate to live in
44 that situation myself, I couldn't, and I thank God I never
45 went to boarding school.
46
47 Q. You've given evidence about what you describe as the

1 corporal punishment or simply brutality. You were a
2 teacher in 1975 at Aquinas College in Ringwood?

3 A. Yes.

4

5 Q. Was there corporal punishment and the use of straps
6 then?

7 A. Yes.

8

9 Q. And you used them?

10 A. Yes. I can clearly remember the first time I gave the
11 strap to a lad, and it was an awful experience for me.

12

13 Q. When did the common use of straps stop?

14 A. I can remember it being when I went to - I was
15 teaching at the time at St Virgil's College Hobart, and I
16 went there in 85, and then the principal of the time said
17 it were no longer to be used. I think it may have been
18 earlier in some cases, but that's when I personally knew
19 that it did, and I hadn't used the strap then for probably
20 a decade, I had stopped using it well before then myself,
21 but that's the earliest time I can recall when it was a
22 kind of a public proclamation. I can remember now seeing a
23 staff member using the corporal punishment and I reported
24 it to the principal of the time, so that's why it's still
25 fairly strong in my memory.

26

27 Q. You would have heard evidence over the last week from
28 men about when they were boys they would be dealt with
29 brutally and then the Brother would seek to comfort them
30 after the brutality that the Brother had inflicted and then
31 sexually abuse them.

32 A. Yes.

33

34 Q. Is that something that you see as being permitted in a
35 culture where there is such brutality?

36 A. Well, I would never ever permit it, no, it's something
37 abhorrent and - no.

38

39 Q. Leaving aside the abhorrent nature of it, which I
40 think no one would disagree with Brother, do you see any
41 connection between the two?

42 A. I see a connection between the brutality and the
43 sexual abuse, yes.

44

45 Q. What's the connection?

46 A. Something about gratification and power, that's how I
47 see it. I wouldn't be a psychological expert in that, but

1 I know that, where there is dominance and power, there
2 seems to be a freedom to think you can do what you like.

3

4 Q. In your time at St Aquinas, when the strap was in use,
5 was there also that power and dominance in addition to the
6 use of corporal punishment?

7 A. I didn't notice it. I think it was, as I said
8 earlier, in the 70s there was starting to be a change. The
9 principal of the day was a good man, was pastoral. It was
10 my first year teaching, I think, and I had a class of, I
11 think it was well over the 40s, you taught most of the day,
12 classroom management was a struggle for me.

13

14 Q. And it was a day school?

15 A. It was a day school.

16

17 Q. In the school that you taught in 1975, were the
18 classrooms such as they could be seen from outside?

19 A. Yes.

20

21 Q. There weren't frosted windows and the like?

22 A. No, I can remember the big pane of glass in the door,
23 yeah.

24

25 Q. Just turning back to your statement, you refer in
26 paragraph 21 to there being secondary schools that the
27 Christian Brothers have a role in Victoria. Do you see
28 that?

29 A. I just got there. Say that again for me.

30

31 Q. You set out there the schools, the secondary schools
32 that the Christian Brothers have a role in Victoria. Do
33 you see that?

34 A. I do.

35

36 Q. You don't have a role in any primary school anymore?

37 A. Correct.

38

39 Q. Is that because of the --

40 A. Sorry, St Kevin's does, has a primary school, but we
41 wouldn't have a direct involvement now with St Kevin's or
42 any of those schools, in that Edmund Rice Education
43 Australia is now an independent group that does that, but
44 they are traditionally connected with the Christian
45 Brothers.

46

47 Q. So, is it the case that no Christian Brothers teach in

1 any school in Victoria?

2 A. Yeah, correct, no teacher - I think we've said in our
3 statement that there is one Brother who is principal at
4 Parade College Bundoora.

5

6 Q. Did that come about because of the reduction in
7 numbers of Brothers?

8 A. As it turns out, I'm one of the youngest myself. So,
9 yes, there's just - I got a request recently, would we have
10 a Brother to help out in the Northern Territory as an
11 emergency principal. Well, I didn't have to think, I just
12 wrote the letter back and say, no, we don't.

13

14 Q. Because there was no one available?

15 A. Or nobody capable of doing it of the age bracket.

16

17 Q. By the early-to-mid-90s when it became known the
18 horrendous nature of the abuse earlier, was that a factor
19 that was taken into account in considering whether the
20 Christian Brothers would continue to have a role,
21 particularly in primary schools?

22 A. I can't answer that, I don't know the reason at that
23 stage.

24

25 Q. Over to page 28. You note there that St Alipius Boys'
26 School, that that school was established by the Christian
27 Brothers in 1888 and operated until 1976 when it was
28 closed. Can you help us with why it was closed?

29 A. No, I can't because I certainly haven't been privy to
30 that information. I could only assume that the benefit of
31 amalgamations was seen as a better way to operate schools.

32

33 Q. Turning over to paragraph 35 of your statement, you
34 refer there to the Christian Brothers Professional
35 Standards Office and the name of the executive officer,
36 Shane Wall. What were or are Mr Wall's qualifications?

37 A. Shane's qualifications?

38

39 Q. Mmm.

40 A. I don't know his qualifications, knowing that he has
41 been a counsellor, a mediator, had worked at St Bernard's
42 College Essendon in the counselling area. That's my best
43 knowledge. Shane was then at times referred - we referred
44 people, Brothers and others, to him for counselling. So,
45 Shane's had a good relationship with the Christian Brothers
46 for some time.

47

1 Q. He is not, himself, a Christian Brother?

2 A. No, he's a married man with a family.

3

4 Q. But he worships, if I can use that language, with the
5 Christian Brothers?

6 A. I don't think he does. I'm not aware of if he does;
7 he doesn't do it with me, no.

8

9 Q. In paragraph 36 you say that you have a monthly
10 videoconference with Mr Wall and he provides a detailed
11 report of any significant developments in professional
12 standards matters. Can you help us with what you would
13 consider to be a significant development that you'd be told
14 of?

15 A. Shane would give us briefing notes of what had
16 happened in the previous month and, for example, we've had
17 a lot of settlement cases, re-examinations in Perth, and he
18 will give us an update on those, what mediation happened,
19 what was the outcome, we would know that, and if there was
20 any pending criminal charges against a Brother, which has
21 happened in recent times, we would be informed of that, and
22 any upgrade or process of what was happening.

23

24 Q. Did the leadership team have any decision making role
25 in respect of professional standards matters?

26 A. We certainly do.

27

28 Q. What areas come to you for decision?

29 A. I know that, if there's a mediation and there's an
30 amount of money that's to be paid, up to a certain amount,
31 if it's more than \$200,000 it needs to go through one of
32 the leadership team for endorsement.

33

34 Q. So anything under \$200,000, who has the delegation to
35 accept that offer or that settlement?

36 A. The province - the Professional Standards Office would
37 have - we have arranged that there's a status where, we are
38 happy with their conduct and that's audited and would go to
39 the Professional Standards Consultative Group as well, and
40 we are satisfied that they have the ability, are able to
41 authorise that.

42

43 Q. I take it that the vast majority of settlements you
44 enter into are beneath \$200,000?

45 A. Would be less than that, yeah. And so, I would get a
46 list every month and I would see who they are, and I have
47 asked questions, why would you think that amount and not

1 that amount. So we're open to ask about a particular case
2 if we wish.

3

4 Q. I presume you get written reports from the
5 Professional Standards Office in those meetings?

6 A. We get?

7

8 Q. Written reports, they're not oral reports that you're
9 providing?

10 A. No, we would get both. Particularly, with the
11 videoconference from Shane and our leadership team,
12 the minutes, we would have our secretary there, our minutes
13 secretary would take minutes of the conversation. They're
14 not as inclusive or as extensive as the Professional
15 Standards Consultative Committee, which would have
16 documentation as well, so there are two separate means in
17 which I have to be in touch with what's happening.

18

19 Q. The Professional Standards Consultative Committee
20 comprises who?

21 A. Well, the Chair of it is former judge, David Jones.
22 We have Angela Ryan, we have Professor Gabrielle McMullan,
23 we have Mr Ron Farrell; they are the four externalised
24 people that come to assist us. Brother John Webb, who's on
25 the Provincial leadership team, he would be the official
26 liaison person with that group.

27

28 I attend meetings as often as I can, which is
29 reasonably frequently, and we'd have Brother Brian Brandon
30 at the moment would be part of that team and sometimes
31 another staff member from the office. Shane Wall as well.

32

33 Q. How does the structure work with the leadership team
34 having the role you've described, there being the
35 Professional Standards Office who report regularly to the
36 team, and the Professional Standards Consultative
37 Committee?

38 A. Well, that's where it's definitely called a
39 Consultative Committee, and David Jones is very good, he'll
40 look at me and say, "Brother, we have to have then
41 endorsed". So, we've had a number of recent policies that
42 have been developed by the committee, they would then go to
43 the leadership team for endorsement or for modification as
44 we would see fit.

45

46 Q. Does the Consultative Committee have any decision
47 making role in respect of settlements?

1 A. No, they do not, they have recommendations only, or
2 they may review it and help us review what is happening.

3

4 Q. So, they receive the same reports that the leadership
5 team receives?

6

7

8

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47

Q. You would expect that the bills would be sent back to

1 you to pay of those counselling sessions?

2 A. I know that happens, yes.

3

4 Q. Do you know whether the order imposes any limits on
5 the number or type of counselling that you provide to
6 victims as they're described here?

7 A. I know that there has been some limits placed. I've
8 heard of sometimes five sessions and 10 sessions, and we're
9 starting to realise, and I only heard evidence yesterday,
10 that it may be years of work that's required.

11

12 Q. When you say you're starting to realise and heard
13 evidence yesterday, is that the first time it's become
14 clear to you that survivors of child sexual abuse at the
15 hands of religious suffer for decades?

16 A. I knew that they would suffer, it's lifelong
17 suffering. I would have known that, but it certainly
18 highlighted the need for ongoing counselling needs of
19 survivors and victims, yes. So it highlighted it, rather
20 than it was new for me.

21

22 Q. The Royal Commission has heard evidence from
23 Ms Lockhart at CASA that she has an arrangement with
24 Mr Wall, whereby she has pre-approved treatment plan for
25 various individuals that she puts forward, and that
26 pre-approval has a period of three months. Did you hear
27 that evidence or was that brought to your attention?

28 A. I did hear that, yes. I did hear that.

29

30 Q. What do you think of that as a system for providing
31 assistance - again, I'm referring to paragraph 43(c) of
32 your statement?

33 A. I think a process has to be put in place. Our
34 relationship with CASA and with the diocese in this matter
35 is new, it's relatively young, and we're learning as we go.
36 And I'd be more than open myself, and I would recommend
37 that to our Professional Standards Office, that we be open
38 for good dialogue with CASA and receive advice from them.
39 So, after extending that three month period and making it a
40 better more streamlined process, I would support that.

41

42 Whatever is better for the victim, we have to
43 continually remind myself, and us, that we have to
44 continually review, reflect upon the processes that are
45 already there and can they be better. We want best
46 practice in whatever we do, and I'm certainly open to
47 dialogue, conversation to receive that best practice.

1
2 THE CHAIR: Q. Brother, what about financing all of
3 this? Does the Brotherhood have assets sufficient to
4 ensure ongoing capacity to fund what people need who have
5 been abused by Brothers?
6 A. It's my understanding that we would have assets at
7 this stage for ongoing - yes.
8
9 Q. We've heard in diocesan arrangements of the problem of
10 assets being tied up in trusts and not accessible. Is that
11 the position with the Brotherhood, or how are the assets
12 held?
13 A. I'm not aware of that, Your Honour. I'm fairly
14 certain that I would be aware of that. Again, I would
15 delegate that to our province bursar and our Investment
16 Committee, but the information that I have, that that money
17 has been available, and we have downloaded, I know, some
18 monies recently to meet the settlement payments that are
19 going at a rapid pace in Perth this year. So, I would not
20 be putting the brakes on that, and I have written letters
21 to our Brothers saying that we will have to change how we
22 operate in order for that to happen.
23
24 MS FURNESS: Q. Do you have a similar relationship to
25 the one in Ballarat with CASA with other agencies outside
26 Ballarat of a nature similar to CASA?
27 A. The one that I do know of is a place called
28 Tuart Place in Perth, in Fremantle, and it's my
29 understanding that we actually own the property there and
30 we make a sizeable donation to Tuart Place each year to
31 allow them - that's a place where survivors and victims can
32 come for counselling and just to hang out, have a meal. I
33 was in Perth only recently and that relationship is going
34 well.
35
36 Q. You're not aware of any other location where such a
37 relationship operates?
38 A. No, I'm not.
39
40 Q. Is it the case that Ballarat and Western Australia
41 have become your most structured area of claims being
42 received; that is, that you put in place structures in
43 those two areas because of the number of claims?
44 A. I could agree with that; I'm not quite sure of the
45 answer, but that would seem quite logical, yes.
46
47 Q. Do you know of any other geographic areas, other than

1 WA and Ballarat, where there's been significant numbers of
2 claims?

3 A. Well, I'm aware of Melbourne, which is my home town,
4 where there's been a number of claims. I know, just from
5 my recent times, would be Goulburn in New South Wales has
6 been another area, and there is a scattering in Sydney. I
7 don't think in Queensland itself - I don't know of any
8 focused area that I've heard of or aware of.

9

10 Q. Is it the case that the counselling you fund is
11 counselling for secondary victims as well as just the
12 primary survivors?

13 A. Actually, I'm pleased you asked me that question,
14 because that's one of the times that I've met with a victim
15 in Melbourne ongoingly, and he'll be listening to this by
16 stream, so just to acknowledge him, the pain that he's
17 going through and he'll know that. He's often said, "What
18 about my wife?" And I've met with her, and it's very sad
19 for me each time I visit, but he's most welcoming and he's
20 a good man and he'll get there, but a man of 65, and it did
21 not come out for him until the last 10 years and it's
22 rocked his family. And I've sat with them and I've cried
23 with them, and if I can help them in any way, whether it be
24 primary or secondary victim, that is my hope.

25

26 Q. Well, it may be your hope, Brother, but is it the
27 case?

28 A. I know, that's a weak word, that's my conviction.

29

30 Q. No, I'm not suggesting that's a weak or strong word.
31 The question was whether or not the order has as a
32 principle or not funding secondary victims?

33 A. No, we have funded secondary victims already, so I
34 would encourage that we develop that and have a process
35 where that is allowed to happen.

36

37 Q. Just turning to claims, if I can turn firstly to
38 paragraph 64 of your statement, which will be on the screen
39 shortly. You refer there to having reached financial
40 settlements with 42 victims in the Diocese of Ballarat,
41 either as part of Towards Healing or through some other
42 way. Are you able to tell us over what period of time
43 those settlements have been reached?

44 A. No, I wouldn't know that, but I can find out. I don't
45 know that fact.

46

47 Q. Are you able to tell us over what period of time the

1 abuse the subject of those claims took place?

2 A. No, I don't know that fact.

3

4 Q. You don't know who were the perpetrators of the crimes
5 the subject of these claims?

6 A. I would have, particularly after this week, I'd have a
7 very good idea.

8

9 Q. Perhaps you could provide us with that information in
10 due course.

11 A. Could you just explain what information you're
12 seeking?

13

14 Q. It's the information I've just sought; the period of
15 time of the claims, the period of time of the abuse the
16 subject of the claims and who were the perpetrators.

17 A. My team would be hearing of that and we will do that.

18

19 Q. Thank you. The total of those payments was just short
20 of \$3 million?

21 A. That's correct.

22

23 Q. With an average payment of about \$70,000?

24 A. Correct.

25

26 Q. With the claims that were settled outside of Towards
27 Healing, that is, those people who came directly to you or
28 through lawyers, are you able to say whether the settlement
29 reached was on average greater than that under Towards
30 Healing?

31 A. I cannot answer that again; I wouldn't be aware of
32 that fact.

33

34 Q. Perhaps if that can be communicated to us.

35 A. We will take note of that, yes.

36

37 Q. Thank you. Those claims, or the settlements that you
38 refer to, are those settlements including matters in which
39 the Catholic Church Insurance were involved?

40 A. I would assume there would be some involvement of the
41 insurance company, but I can only assume that. I haven't
42 seen the break of up how it was made, I just know as a
43 general concept that sometimes there is Catholic Insurance
44 involvement, as well as ourselves, with monies involved.

45

46 Q. Perhaps you can confirm that those two paragraphs of
47 your statement are in relation to matters in which CCI had

1 an involvement, as well as they didn't have an involvement
2 because the money came from the Christian Brothers?

3 A. I could ask our team to do that, yes.
4

5 Q. Thank you. Turning over to paragraph 73, you refer
6 there to the re-examination of claims.

7 A. Yes.
8

9 Q. Did that re-examination come about following the Case
10 Study 11 that the Royal Commission did in Western
11 Australia?

12 A. Again, for my limited time in this position, I haven't
13 got those facts with me.
14

15 Q. You don't know when it was that the Christian Brothers
16 began re-examining claims in the Diocese of Ballarat?

17 A. No, I don't know.
18

19 Q. Perhaps you could also tell us that.

20 A. Another one to find out. Yes, sure.
21

22 Q. You say that so far 11 claims have been re-examined
23 and additional payments made; do you see that in your
24 statement? What's the process by which the re-examination
25 takes place?

26 A. It's my understanding, and again, it is just what I've
27 heard, I can't isolate or term down, that we now strongly
28 encourage, if a person comes forward from experience, that
29 they have legal representation when they come. We would
30 have legal representation, and we certainly base it on the
31 guiding principles that we have in place now when we deal
32 with this.
33

34 Q. Sorry, you mean the guiding principles for civil
35 claims?

36 A. Yes. Yes, that is produced by our Consultative
37 Committee and monitored as well. And we would then
38 hopefully go through a non-adversarial process.
39

40 Q. Essentially, a mediation between lawyers?

41 A. That's correct, and with - well the one - I've been at
42 one where I was present for part of it. So, there are some
43 of our people, the victims, survivors, that would like an
44 apology and we would do that; some would like a Brother to
45 do that apology and we would arrange that as well.
46

47 Q. It sounds somewhat akin to some of the Towards Healing

1 processes, Brother?

2 A. Yes, it would be. I would say - well, we have - the
3 people that approach us, the victims that approach us in
4 any way, we would always be encouraging to give an
5 options - and particularly if they've got legal
6 representation, we now find that's better that their legal
7 representation can help them make that appropriate
8 decision, which way they would like to go.

9

10 Q. Is there any criteria given to the lawyers as to the
11 way in which they should consider a range of payments in
12 the re-examination process?

13 A. Yes, there are, and those guiding principles for civil
14 claims that was produced by the Consultative Committee,
15 that has also been handed to our lawyers and that's our
16 instruction, that it is not to be adversarial, it is to be
17 victim-orientated and it is to show a sense of compassion
18 and dignity for the person that approaches us.

19

20 Q. What about in more hard financial terms --

21 A. Sorry, say again?

22

23 Q. In hard financial terms, is there any range that's
24 indicative, any limit set, those sort of things?

25 A. Well, if you - I can only go by the facts from this
26 one, that the average, say it was \$70,000 and when they
27 were re-examined it went to 92. Now, that's all I can say
28 on that area, but I know Shane and the Professional
29 Standards Office, they would look at the situation
30 beforehand, they would discuss it amongst their team and,
31 if it's a dubious one they may take it to the Consultative
32 Committee to work out what they think would be an
33 appropriate range to start at least a negotiation with.

34

35 Q. Do you know whether, what is usually referred to as
36 common law principles of compensation in a civil world
37 apply?

38 A. I've heard of it, but unfortunately my legal
39 understanding would not allow me that.

40

41 Q. So, do you know whether compensation for lost income
42 is considered?

43 A. I'm not aware of that.

44

45 Q. To your understanding, is the amount based on what I
46 can call pain and suffering?

47 A. It would certainly be involved in it.

1
2 Q. Including expenses that might have been incurred as a
3 result of the abuse, medical and the like?
4 A. Well, I know that has happened, yes.
5
6 Q. The process is open for a particular point of time, or
7 ongoing for people to come and seek a re-examination of the
8 amounts they've been given?
9 A. Well, I know it's open, and whether we like it or not,
10 I'm open to that; that if a person wants to come forward,
11 it has to be their time where they feel comfortable and the
12 invitation is always there for them to come forward.
13
14 Q. Is there a budget that your province has in mind or
15 imposed in respect of these payments?
16 A. We certainly haven't imposed anything, because
17 this year it's gone five times from what it was. And
18 that's our struggle, I mentioned to His Honour, of finding
19 that money and we just haven't got it in cash, so we are
20 trying to realise that now.
21
22 Q. You referred before to having downloaded some money.
23 I wasn't sure what that meant?
24 A. My understanding, again not a financier, that we would
25 have some form of investment portfolio, and we had to make
26 the best arrangement how to find cash rather than just
27 leave it in the portfolio. So realise some of those
28 investments, how we could pay these claims.
29
30 Q. Would any of those investments be in property?
31 A. I know that some property has been sold, yes.
32
33 Q. Is it the case that the property that has been sold is
34 property that's held in relation to the diocese or the area
35 within which the claims arose or more generally?
36 A. No, generally. Our finances are certainly Oceania
37 wide, so from the Philippines to Perth.
38
39 Q. One issue that you may have heard that's arisen in the
40 evidence this week is that, after a settlement has been
41 arrived at, the person received no further contact from the
42 Christian Brothers to see how he was going?
43 A. What was the question?
44
45 Q. You've heard that evidence?
46 A. I have, I did.
47

1 Q. Is there any structure in place whereby your
2 professional standards people organise a follow-up with the
3 person who's received a settlement?

4 A. I have had a conversation with the Professional
5 Standards Office on that, and I would say from my
6 observation over recent months that that is something that
7 we need to improve on, and I would be committed to that.

8
9 So I've had an initial conversation with the
10 Professional Standards Office, not in trying to find an
11 excuse, but they have been inundated with claims from,
12 particularly from Perth, and I would not expect that office
13 to do it. I think it's something that we as a leadership
14 team have discussed and we have determined that we need a
15 ministry - whether that's a good or bad word - of healing
16 and reconciliation, and that's where we as a team,
17 leadership team saying, we will take that on ourselves.
18 That may mean, and I think it will mean we'll need to
19 engage other people to assist us in the ministry of healing
20 and reconciliation, particularly of those people that have
21 been abused within our institutions of the past.

22
23 Q. Is it the case that there's only one Professional
24 Standards Office for the whole of the province?

25 A. Correct. We decided - since my time in office we've
26 had an internal review of the office and there were some
27 very good recommendations given to the team, our leadership
28 team, and one was that we would open an office, say in
29 Perth. But we've decided, no, that one office is best for
30 centralisation of records and accounting procedures, but we
31 would have asked - already now asked a Brother in Perth to
32 forego his present ministry and take up this area of
33 meeting with victims, which he's got a very good
34 relationship with some, working with Tuart Place as a
35 full-time basis.

36
37 I have asked five Brothers to undergo training,
38 professional training in this area and that is in progress,
39 and I would see them, and maybe I think what needs to
40 happen, and again it's just my thought bubble at the
41 moment, but it's something that I would be working towards,
42 that we may need to engage a professional person in this
43 area and probably more preferably a woman in the area.

44
45 Q. When you say "in this area", that is to deal with
46 survivors rather than necessarily to train your people?

47 A. Exactly, or might do a bit of both. But I'd say the

1 area that I see is unmet need at the moment is to have good
2 pastoral care for those victims who want it. I'm very
3 aware that - I was at a mediation or a conference only this
4 Monday before I came here and the person that I met with to
5 offer an apology, he just put his hand up. He said, "I
6 don't want your apology, I don't want to see you again,
7 just help me get this over with and I want to move on with
8 my life". And that was very difficult for me to sit
9 through, but I have learnt that I need to deeply listen to
10 the people, the victims that come to us. Now, he wanted
11 compensation and that's all he wanted really to get on with
12 his young family and not to see a Christian Brother again.
13

14 Q. Have you given consideration to having a Brother do a
15 similar position here in Ballarat as to the one in Perth?

16 A. Yes, certainly.
17

18 Q. How's that advanced?

19 A. It hasn't advanced greatly, but it's - I think you can
20 read in my statement, because of the diversity of Oceania,
21 this is probably the first time I've a lengthy period in
22 Ballarat and I'm very much more aware of the seriousness
23 and the need here in Ballarat. And it would be a priority
24 in my life and the team leadership team's life to meet some
25 of the needs where we can and where we're invited into.
26

27 Q. Do you require deeds of release to be signed by those
28 who receive a sum of money?

29 A. We ask for a deed of release where it's required, but
30 we wouldn't stand on that, and we certainly don't have
31 confidentiality agreements anymore.
32

33 Q. So the deed of release is confined to making further
34 claims, not that you can't talk about what happened?

35 A. Our hope would be for the healing process to happen,
36 that we can come to a reasonable agreement at this
37 re-examination, but if it comes to a third re-examination,
38 well, we won't be putting our hand up and say "go away".
39 Our response has to be compassionate, open and at least
40 ready to listen to what people have to tell us.
41

42 Q. But the Christian Brothers is insured by
43 Catholic Church Insurance, isn't that right?

44 A. We were, my understanding was, and so claims in that
45 time of insurance period would still be covered and we
46 still work with CCI on some elements, yes.
47

1 Q. Does the CCI require you to enter into a deed in order
2 to provide the funds?

3 A. A deed of release, you mean?

4
5 Q. Yes.

6 A. I'm not aware if CCI asked for that. I know that the
7 practice does happen sometimes. Whether that's a direction
8 from CCI, I don't know.

9
10 MS FURNESS: I note the time, Your Honour.

11
12 THE CHAIR: Q. Yes, just before we adjourn, Brother, I
13 think you told us you've been a Christian Brothers for more
14 than 40 years; is that right?

15 A. Correct.

16
17 Q. You know, of course, because we've talked about it in
18 public hearings, of these significant issues that have
19 emerged in the Christian Brothers in relation to the abuse
20 of children. When did you first start to realise that
21 there might be a problem in the Brotherhood?

22 A. As I mentioned earlier, Your Honour, the first time
23 that I felt a deep sense of shame and really rocked my own
24 belief in being a Brother was in that early 90s time when
25 it became so publicly acknowledged of the failures of some
26 of our --

27
28 Q. That's the public acknowledgment, but what about
29 within the Brotherhood, when did you even start to think
30 there might be a problem?

31 A. I think it was around that time, because previously to
32 the public shamefulfulness of ourselves, I really wasn't aware
33 of the seriousness of anybody really in this area of abuse;
34 I can say that.

35
36 Q. Well, you know of course now that there were a number
37 of your members who were abusing.

38 A. I do know that now.

39
40 Q. And abusing at times that you were in the Brotherhood?

41 A. Correct.

42
43 Q. And you say that you didn't have any idea?

44 A. Well, the - I joined the Brothers in 1972 and finished
45 my training around first mission, teaching assignment was
46 1975, and yeah, I wouldn't have heard a slightest thing in
47 those times, no.

1
2 THE CHAIR: We'll take the short adjournment.

3
4 **SHORT ADJOURNMENT**

5
6 THE CHAIR: Q. Brother, just before Ms Furness takes up
7 her questions, there's a couple of matters that the
8 Commissioners would just like to raise with you.

9
10 Ms Furness asked you about your instruction when you
11 were being educated as a Brother, and she referred to the
12 1932 rules; you remember that?

13 A. Yes, it should have been the 1832 rule.

14
15 Q. Yes, sorry. But in any event, you said that you were
16 taught about the rules of conduct between a Brother and a
17 child in the school setting and so on. Were you told why
18 those rules were necessary?

19 A. No, we weren't, detail wasn't given. It was clear, we
20 were just given it as an instruction, a recommendation, and
21 I suppose at the time I remember in 72 I wasn't quite
22 aware, but I knew that we had to follow that, that
23 was - yeah.

24
25 Q. What did you think was the reason why you were being
26 told to follow those rules?

27 A. I certainly didn't connect it with sexual abuse, it
28 was just an appropriate way that an adult would be with a
29 child, that you wouldn't be there alone. I certainly,
30 yeah, it's hard to know what I connected with then, I can't
31 recall exactly.

32
33 Q. When did you start to start it might have had
34 something to do with the risk of sexually abusing a child?

35 A. I suppose, when I started teaching myself and being
36 aware that students, you know, had to have dignity and
37 practice of students, and I always remembered those
38 occasions, particularly in my early years as a Brother, and
39 ongoing, as I think I finished teaching around 1990, 1992,
40 and they were always part of my practice. I can remember
41 certainly at St Virgil's in Hobart where the principal at
42 the time made sure that you could see into classrooms, that
43 area. So it was awareness that it was there as I commenced
44 my teaching career.

45
46 Q. When you were given instruction as to how you were to
47 behave, were you instructed as to what you might do if you

1 saw others, other Brothers, who were not behaving in
2 accordance with the rules?
3 A. No, I can't recall we were ever informed who to inform
4 or what to do if we saw another Brother break those rules,
5 no.
6
7 Q. What did you think you would do if you saw another
8 Brother break the rules?
9 A. Hopefully I'd report it, and that would be to the
10 superior of the community, which is normally the head
11 master of the school in those days.
12
13 Q. So, did you see it as your obligation or duty to
14 report if you saw a breach?
15 A. Certainly, I would have, and I've always - even of my
16 earliest years, valued a positive relationship with
17 students and always sought to meet their needs in a
18 wholesome, educational context. Certainly, even as I
19 mentioned earlier, I even found corporal punishment in my
20 first year at Ringwood as not the right thing to do; I knew
21 it intuitively.
22
23 Q. Did you ever have occasion to report a Brother for
24 breaching the rules?
25 A. I have not, no.
26
27 THE CHAIR: Yes, Ms Furness.
28
29 MS FURNESS: Q. Brother, you're aware that there have
30 been three Brothers convicted of offences committed in this
31 geographical area?
32 A. I am.
33
34 Q. That's formally Brother Farrell, Edward Dowlan, who's
35 now known as Ted Bales, and Robert Best?
36 A. Correct.
37
38 Q. You're also aware that the Christian Brothers paid for
39 the legal proceedings on behalf of each of those?
40 A. I am.
41
42 Q. In relation to Stephen Farrell, it was just over
43 \$23,000?
44 A. I can't recall the exact number, but that's the
45 approximate amount of money that I'm aware of.
46
47 Q. Can I tell you that the numbers I'm giving you are

1 numbers that were provided to the Royal Commission under
2 notice from those who act for you.

3 A. I think I remember seeing that information.
4

5 Q. In relation to Edward Dowlan, just over \$77,000?

6 A. That's a figure I recall.
7

8 Q. And Robert Best, \$1,527,949?

9 A. That is the figure that I have read.
10

11 Q. Is there any rule in place now as to whether or not
12 the order will contribute to or pay the costs of a Brother
13 charged with child sexual offences?

14 A. Certainly, and it's been a matter of conversation even
15 since I've been in this leadership position. And again,
16 with the Consultative Committee, I think we tendered a
17 document about legal costs associated with defending a
18 Brother that is charged. There are protocols now set in
19 place, which really, it's a stage by stage approach and
20 particular --
21

22 Q. What does that mean?

23 A. Well, say where a Brother needs an initial, he's
24 charged by the police, he needs a solicitor to go and be
25 with him, that's staged. So the next stage might be if
26 there's a court appearance or committal or whatever the
27 stage is. So, each stage we would assess what a level of
28 expenditure would be associated or what legal
29 representation he would require.
30

31 Q. Does it depend upon whether he's pleading guilty or
32 not?

33 A. No, not - as I'm aware of, no; if he's entering the
34 legal system I think for that legal system to work, he
35 needs representation.
36

37 Q. Does that decision that's made on each staged basis
38 depend upon the nature of the charges?

39 A. I'm not sure of that answer.
40

41 Q. The sufficiency of the charges, that is, whether
42 there's likely to be sufficient evidence to prove the
43 charges; is that a factor?

44 A. Well, I think, if it's in the legal system, there must
45 be some evidence there or it would never have got to that
46 state; that's my understanding.
47

1 Q. So the basis for considering assisting a Brother at
2 each stage is because (1) they're a Brother and (2) they
3 probably don't have independent means?

4 A. Well, they certainly don't have any monetary means of
5 entering the legal system so, whether we like it or not as
6 a congregation, we need to make sure that that system
7 happens and that we in no way, because we can't afford it,
8 we block it or make it difficult for those proceedings to
9 happen.

10
11 Q. There's been evidence this week of one or more men who
12 had the experience of attending court alone while the
13 Brother who was charged was supported both financially and
14 by physical presence of a Christian Brother and how that
15 affected them. Are you aware of that evidence?

16 A. I heard parts of it. The part that I know that I
17 heard that really affected them was the amount of money.

18
19 Q. Well, and the fact that the Christian Brother was
20 supported by other Christian Brothers in the court and they
21 were alone and had not been contacted by the Christian
22 Brothers. That's the effect of the evidence.

23 A. Yeah, well, just because a Brother's there to support
24 a fellow Brother, I'm okay about that. If the victim was
25 there unsupported, I'd be very concerned about that, and I
26 must say, I didn't hear that, I wasn't aware of that until
27 you raised it now. I was more aware of the financial
28 inequity there.

29
30 Q. So, what's your reaction to that evidence that I've
31 just told you of?

32 A. Well, if we can support a victim go through a process,
33 and if that means somebody we arrange accompaniment of that
34 person in the court system, I would support that. And
35 again, it would be up to - no way I could enforce that in
36 any way, but if the request came, we'd do our very best to
37 meet that need as it arose.

38
39 Q. The need of the Brother?

40 A. No, the need of the victim.

41
42 Q. Brother Dowlan, as he was known, has been dispensed
43 from his vows; that's right?

44 A. Correct, in 2008 I think.

45
46 Q. And Farrell was at the stage where he hadn't yet taken
47 his final vows; is that right?

1 A. Yes, my understanding was, he voluntarily left after
2 two years as a professed member of the Brothers, so at
3 quite an early stage of his life.

4
5 Q. And there was no need for anyone to do anything,
6 because he had chosen to leave?

7 A. That's right. Usually that happened around Christmas
8 time each year that a list of names went out of temporary
9 professed and, if you wished to renew your vows you wrote a
10 letter to the Provincial of the day indicating which way
11 you went. So, I'm assuming he followed that process and
12 wrote that letter or indicated that he was not renewing his
13 vows.

14
15 Q. Best remains a Brother?

16 A. At this stage, he does, yes.

17
18 Q. Why is he still a Brother?

19 A. Because he hasn't gone through the exclaustation or
20 dispensation, and he has not requested that. And as far as
21 I'm aware at this early stage of my leadership, the
22 congregation hasn't taken any initiative in that area
23 either.

24
25 Q. Why not?

26 A. I cannot answer that directly, but I know that in our
27 Nairobi chapter any Brother now who offends from now on
28 will no longer remain a member of the congregation. Prior
29 to that, that means prior to 2013, there is no legislation
30 in our constitutions for that to happen.

31
32 Q. Have you gone to Rome about Best?

33 A. No, I have not.

34
35 Q. Why not?

36 A. The matter has not come to my attention yet because
37 he's still in prison and it hasn't come to my attention to
38 take it further at this stage.

39
40 Q. When you say it hasn't come to your attention, you
41 know he was convicted, you know he's in prison and you know
42 he's a Brother. What more do you need?

43 A. Correct. Now, I'm assuming that you mean take it to
44 Rome for his dispensation of vows?

45
46 Q. Yes.

47 A. Yes. No, I have not moved in that direction as yet.

1
2 Q. When you say "as yet", do you have any plans to?
3 A. I would need to take advice. As I have mentioned to
4 you earlier, I have raised this in a general conversation
5 with other congregational leaders who would have far more
6 experience than I have. And all they said to me, it's a
7 very complicated and long process. That's where I left it,
8 really.
9
10 Q. But if the process doesn't begin, then he won't be
11 dispensed, will he, at all?
12 A. That's correct, and for me, I know the crimes, I've
13 only heard how awful they are. If Best comes out of
14 prison, whenever that is, he'll be an elderly man, so what
15 do we do with an elderly man in his 80s? So some would
16 say, leave him where he is. Well, I'm not sure how I would
17 respond, is probably my best answer at this stage.
18
19 Q. Are you content with him, when he comes out of prison,
20 being able to call himself a Brother?
21 A. I'd be very uncomfortable with that.
22
23 Q. And he can call himself a Brother when he comes out of
24 prison, can't he?
25 A. He still can, but I know he doesn't in there, but he
26 still can, yes. I am of the conviction that anybody that
27 committed the crimes that he has done, how could he ever
28 live a life of a Christian Brother and how could he be
29 faithful to the charism of Edmund Rice.
30
31 Q. Leaving aside his views or --
32 A. Well, they're my views, sorry.
33
34 Q. Leaving aside how he might consider himself, isn't it
35 the case that those who have survived his abuse would
36 surely be, at the very least, unsettled by the fact that he
37 could still call himself a Brother?
38 A. Yes, I would assume that, yes.
39
40 Q. What is necessary to stop him calling himself a
41 Brother is to begin what you've described as a complex and
42 lengthy process?
43 A. Correct.
44
45 Q. And that process hasn't begun?
46 A. Correct.
47

1 MS FURNESS: Thank you. Your Honour, I have nothing
2 further.
3
4 THE CHAIR: Yes. Does anyone else have any questions?
5
6 MR SECCULL: Yes, I do.
7
8 THE CHAIR: Anyone else have any questions?
9
10 <EXAMINATION BY MR SECCULL:
11
12 MR SECCULL: Q. Brother Clinch, my name is Seccull, I
13 appear on behalf of [BAP], [BAV] and Andrea Lockhart, and
14 Andrea Lockhart is part of CASA here in Ballarat. I'd just
15 like to turn my attention to the responses of the order in
16 Ballarat and firstly please if I could take you to
17 paragraph 66 of your statement.
18
19 Paragraph 66, I'd just like to confirm the following:
20 that in May 2013 the Christian Brothers publicly stated to
21 the Victorian Parliamentary Inquiry:
22
23 *Our commitment to an ongoing and meaningful*
24 *engagement with victims and their*
25 *representatives. We urged any former*
26 *student needing support or counselling to*
27 *contact us in whatever way they wished. We*
28 *also indicated that we were open to*
29 *engaging with those who had received*
30 *previous settlements but who had ongoing*
31 *needs for assistance, and that we would*
32 *consider claims that a former settlement*
33 *was inadequate or unjust.*
34
35 And that was so?
36 A. (Witness nods).
37
38 Q. That sentiment, as I understand from paragraph 67, was
39 reiterated by Brother Julian McDonald following the Case
40 Study 11 in Western Australia of this Royal Commission?
41 A. (Witness Nods).
42
43 Q. If I could then please take you, Brother, to tab 181,
44 and that will appear on the screen in a few moments.
45 Brother Clinch, this appears at tab 181 of the general
46 tender bundle, Your Honours, and more particularly it is
47 dated 2 September 2014. It appears to be a media release

1 from your congregation, described as:

2
3 *Christian Brothers WA Royal Commission*
4 *undertakings, Update No.2.*

5
6 I'd just like to read the first few paragraphs to you,
7 Brother:

8
9 *The Christian Brothers today released its*
10 *second update on progress on the*
11 *undertakings made at the conclusion of the*
12 *public hearings of the Royal Commission in*
13 *Perth.*

14
15 *The commitments made at the Royal*
16 *Commission were:*

17
18 *1. Providing survivors of abuse suffered*
19 *at facilities operated by the Christian*
20 *Brothers with ongoing professional*
21 *psychological counselling, for life if*
22 *needed.*

23
24 *2. Being open to re-examining cases that*
25 *have been settled on demonstrably unjust*
26 *and unreasonably low terms.*

27
28 I take it, Brother Clinch, that that accurately
29 records the intent of the announcement first made
30 in May 2013, reiterated in April 2014, and further referred
31 to in September 2014.

32 A. Right.

33
34 Q. I take it from evidence you've given earlier this
35 morning that you're aware of claims being made in respect
36 of these sorts of events, from about the early-to-mid
37 1990s; would that be fair?

38 A. That would be fair.

39
40 Q. If I can take you then to paragraph 73 of your
41 statement. This paragraph relates more directly to the
42 victims of institutions within the Diocese of Ballarat. If
43 I could just read:

44
45 *With respect to victims at Christian*
46 *Brothers institutions in the Diocese of*
47 *Ballarat, I understand that so far 11*

1 *claims have been re-examined and additional*
2 *payments made. I am advised that the total*
3 *amount of additional payments relating to*
4 *these claims is \$914,400.*

5
6 I take it that's correct?

7 A. I'm assuming that too.

8

9 Q. Are we to understand that, of the 11 claims that have
10 been re-examined, payments, be they by way of counselling
11 or further compensation, have been made in each of those
12 claims?

13 A. I would hope so, yes.

14

15 Q. Can I ask, Brother Clinch, what principle, what
16 belief, what aspect of character within your congregation
17 led the congregation to resolve claims against victims of
18 childhood sexual abuse on a basis that they now accept was
19 demonstrably unjust and unreasonably low?

20 A. So, there's been - from an original settlement to
21 claiming that they're unjust now in the light of our day?

22

23 Q. Yes. What's the explanation for that ever occurring?

24 A. Well, my understanding would be that any process that
25 we started, and there may have been mistakes done in the
26 past, I acknowledge that, and we don't stay with that
27 mistake in the past and we need to continually, even to
28 today, continually to review what is happening and the
29 process that's happened and the compensations that are
30 paid. And if sums were well under what they should have
31 been - I wasn't there, I don't know the reasoning at this
32 stage, but I do know that we need to re-examine where those
33 cases are such.

34

35 Q. Having regard to your involvement in the congregation
36 for many years, and I understand that you weren't involved
37 at the relevant time, but what is it that you think as a
38 matter of culture, as a matter of principle, as a matter of
39 belief, that led to those matters being resolved as I say
40 on the basis that you now accept were demonstrably unjust
41 and unreasonably low?

42 A. Well, that's in hindsight we've made those comments,
43 maybe over a period of number of years. I'd say in the
44 early stages there was a sense of disbelief, of shock,
45 maybe a sense of, what's happening to us, we're crumbling,
46 protecting ourselves would have been a part of that. That
47 would be my impression as a person outside of the system

1 that made those decisions, and I can accept that, and I
2 don't accept it either in that regard, that it needs to
3 change.

4
5 Since I have been around, and it's the last couple
6 of years, I'd say, since Julian McDonald would have been
7 very forcibly behind it, there has been a change
8 completely - not completely, there's been a growth in
9 attitude that we must be more compassionate, victim
10 orientated, and this needs to be done with a sense of
11 dignity. And that would be - not my hope - my stance for
12 the future.

13
14 Q. Why did it take until May of 2013 for that reappraisal
15 to occur?

16 A. It's my understanding, again I wasn't there then, but
17 it's my understanding that it was ongoing before then and
18 it was named at that time.

19
20 Q. You'd appreciate, no doubt, that the time that elapsed
21 between claims coming in in the early-to-mid 1990s
22 to May 2013 was a significant period?

23 A. Yes, that's a significant period.

24
25 Q. And a period in which, in the absence of the
26 reappraisal possibly, and I respectfully suggest did, lead
27 to a compounding of issues of victims in terms of healing?

28 A. My stance would be that that's a strong possibility
29 and it needs to be focused - anything that happens on the
30 healing of the victim - and what goes through my mind is,
31 how do they have to go through a second stage of that and
32 go through it a second time sitting at a mediation table.
33 I would say that could be traumatic, and I know in our
34 guiding principles that we have now in place that that is
35 number 1, I think, that we do not do that to any further
36 victim - semi-traumatise a second or third time. I find
37 that so difficult for me to accept; I can't even imagine
38 what it may be like for a victim.

39
40 MR SECCULL: Thank you, Your Honour.

41
42 THE CHAIR: No one else has any questions? Ms Furness?

43
44 MS FURNESS: No.

45
46 THE CHAIR: Thank you, Brother. Thank you for your
47 evidence, you are now formally excused.

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<THE WITNESS WITHDREW

MS FURNESS: Your Honour, that completes the witnesses for today. If we can resume at 10 am on Monday to hear the evidence of Associate Professor Carolyn Quadrio.

THE CHAIR: Yes, very well. We'll adjourn until 10 o'clock on Monday morning.

**AT 12.15PM THE COMMISSION WAS ADJOURNED
TO MONDAY, 25 MAY 2015 AT 10AM**

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