



**Special Commission of Inquiry into matters relating to the
Police investigation of certain child sexual abuse allegations in
the Catholic Diocese of Maitland-Newcastle**

Opening Address of Commissioner Margaret Cunneen SC

Newcastle Supreme Court - Monday, 6 May 2013

1. Welcome to the public hearings of the Special Commission of Inquiry into matters relating to the Police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle.
2. I intend to make some introductory remarks about certain matters before inviting Senior Counsel Assisting, Ms Lonergan SC, to provide an opening address.
3. After that, I will take the appearances for parties authorised to appear at the public hearing.
4. The Special Commission of Inquiry was established pursuant to Letters Patent dated 21 November 2012 and 25 January 2013, issued in the name of the Governor of New South Wales and in accordance with the *Special Commissions of Inquiry Act 1983*.
5. It followed the broadcast of an ABC television report on the *Lateline* program on 8 November 2012 in which a senior Police officer, Detective Chief Inspector Peter Fox, made certain statements regarding alleged child sexual abuse by Catholic priests, including Father Denis McAlinden and Father James Fletcher, who are both now deceased, who had been associated with the Maitland-Newcastle Diocese. Detective Chief Inspector Fox referred to what he believed to be the covering up of such conduct by the Catholic

Church, including the relocation of offending priests and, in what he suggested was an attempt to protect the good name of the Church, the apparent hindering of associated Police investigations into such alleged child sexual abuse.

6. During that same broadcast, Detective Chief Inspector Fox also made certain statements to the effect that he had been ordered by senior Police to cease investigating certain matters and had been directed to hand over his files in relation to those matters for reasons unknown to him.
7. The Terms of Reference for the Inquiry require me to inquire into and report upon the following matters:
 - (i) the circumstances in which Detective Chief Inspector Peter Fox was asked to cease investigating relevant matters and whether it was appropriate to do so (which can be described as the "First Term of Reference"); and
 - (ii) whether, and the extent to which, officials of the Catholic Church facilitated, assisted, or co-operated with, Police investigations of relevant matters, including whether any investigation has been hindered or obstructed by, amongst other things, the failure to report alleged criminal offences, the discouraging of witnesses to come forward, the alerting of alleged offenders to possible police actions, or the destruction of evidence (the "Second Term of Reference").
8. The expression "relevant matters" is defined in the Terms of Reference as meaning:

"any matter relating directly or indirectly to alleged child sexual abuse involving Father Denis McAlinden or Father James Fletcher, including the responses to such allegations by officials of the Catholic Church (and whether or not the matter involved, or is alleged to have involved, criminal conduct)."

9. The public hearings of the Inquiry scheduled for this week and the following week are directed at the First Term of Reference.
10. The Commission will hold separate public hearings in June and July, in Newcastle, in relation to the Second Term of Reference.
11. On 13 February 2013, the Inquiry's public proceedings were formally opened. On that occasion, I made some opening remarks relating mainly to the Second Term of Reference, certain of which I now wish to repeat. I do so in particular, for the benefit of those who are present in the courtroom today from the Hunter region which has been so deeply affected by some of the matters investigated by this Inquiry.
12. First, children are inherently vulnerable and innocent. The sexual abuse of children is abhorrent. It exploits their vulnerability, irreparably damages their innocence and casts a shadow over their whole lives. It can be very difficult for children to break their silence about sexual abuse, and when they do, the collective responsibility to take action weighs heavily on all.
13. Further, the perpetrators of such child sexual abuse, including in a clerical context, will often hold positions of trust in relation to the child. When sexual abuse is committed by those in positions of trust and authority, it is even more abhorrent. The commission of such acts of sexual abuse always involves a reprehensible betrayal of the faith and trust placed in that person by the child and the child's family.
14. Secondly, the Diocese of Maitland-Newcastle has had a very troubled history regarding issues of child protection and the sexual abuse of children perpetrated by persons associated with the Diocese, including certain priests.
15. Two of those priests were Father Denis McAlinden and Father James Fletcher. Both of these persons are named in the Commission's Terms of Reference. Each has been recognised, including by the Diocese, as having committed

sexual abuse against children whilst serving in, or incardinated to, the Maitland-Newcastle Diocese.

16. Father Denis McAlinden is regarded by many as having a history of sexual offending against children over four decades. Many persons identifying themselves as victims of Father McAlinden have come forward over time. Father McAlinden died in 2005. In June 2010 Father McAlinden was publicly described by the then Bishop of the Maitland-Newcastle Diocese as having been "a predator", who should have been dealt with earlier.
17. Father James Fletcher was ultimately convicted and sentenced in NSW in 2004 of having committed nine offences relating to the sexual abuse of a minor, who had been an altar boy. The sentencing judge described these offences as involving a "gross and inexcusable breach of trust." Over time, a number of other victims of Father Fletcher came forward.
18. Following the conviction of Father Fletcher, in December 2004, the then Bishop of the Maitland-Newcastle Diocese issued an apology to the victims and the victim's families for the pain and suffering caused by the criminal actions of Father Fletcher. Father Fletcher died in gaol in January 2006 [from natural causes].
19. A third matter of importance should be noted. A number of persons who have identified themselves as victims of Father McAlinden or Father Fletcher have information that is relevant to the Inquiry and have come forward to provide that information since the announcement of the Inquiry. I have previously encouraged, and continue to encourage, these people to contact the Inquiry so that their voices may be heard, and so that steps can be taken to consider the information that may be available. It has rightly been said that child sexual abuse is no longer a crime in which the conspiracy of silence continues to the grave.

20. Fourthly, this Inquiry provides an important opportunity for persons who held relevant positions within the Catholic Church to come forward and provide information to the Inquiry about events that occurred in the past.
21. Conceivably, this may include information both as to the good and the bad that occurred in the past, including (if it be so) an acknowledgment that things could well have been handled differently and better. I have previously encouraged, and continue to encourage any such person who may have relevant information also to come forward and provide it to the Inquiry.
22. Fifthly, this Inquiry will principally look at matters that occurred in the past. In doing so, while there may be some important aspects that are regarded as immutable, some care may need to be taken about necessarily judging events of the past solely by today's knowledge and standards. I now take the opportunity to mention some further matters by way of introduction. First, as is now well known, after the establishment of the present Special Commission of Inquiry a National Royal Commission into Institutional Responses to Child Sexual Abuse has been established. The National Royal Commission was effectively established on 11 January 2013, pursuant to Letters Patent issued by the Governor-General on 11 January 2013 under the Commonwealth *Royal Commissions Act* 1902 (Cth).
23. The terms of reference of the National Royal Commission are broadly stated. Consistent with its terms of reference, the Royal Commission can look at, among other things, any private or non-governmental organisation, including a religious organisation (such as a Diocese), that is, or was in the past, involved with children, and to consider the institutional responses to allegations and incidents of child sexual abuse and related matters.
24. The present Inquiry is authorised to and has established arrangements for the referral and sharing of evidence, information and matters coming to the attention of the Inquiry which fall outside the scope of terms of reference but which may be of relevance to the National Royal Commission.

25. This Inquiry has been able to utilise this procedure to refer material, received from a number of different sources, for examination and investigation by the Royal Commission, and will continue to do so as appropriate.
26. The Inquiry has received from Detective Chief Inspector Fox a large quantity of evidence and material that, while falling outside the Terms of Reference of the present Inquiry, raises matters of significant importance. This includes matters in relation to the general manner in which the Catholic Church has dealt with child sexual assault allegations. This evidence and material provided by Detective Chief Inspector Fox has been referred to the Royal Commission for further examination and investigation.
27. A significant focus of the Inquiry's work has been dealing with victims of past sexual abuse by Father McAlinden and Father Fletcher and with victims' families. This leads me to the second matter of present importance. The Inquiry will adopt the practice of using pseudonyms to protect the identity of particular persons, mainly victims and family members, who may give evidence, or otherwise be referred to in evidence or documents before the Inquiry. The use of such pseudonyms has regard to the particular sensitivities of victims and family members who may already have suffered severely because of the offending conduct of Father Denis McAlinden or Father James Fletcher.
28. It is expected that counsel and witnesses will also use designated pseudonyms when referring to victims and victims' families.
29. I also intend to make non-publication orders regarding the names of such persons or any matters that would tend to identify them.
30. A final matter should be mentioned, although it will have greater relevance to the hearings in June and July in relation to the second Term of Reference. On occasion, the Inquiry may be required to take certain evidence in camera (ie without access to the media or the general public present). Under the *Special Commissions of Inquiry Act*, I am authorised to take evidence in

camera where it is considered desirable to so, including so as not to prejudice, by pre-trial publicity, any potential future criminal proceedings or influence evidence that any witnesses might give at such proceedings. In circumstances where I am commissioned to inquire into particular matters which relate to allegations of "concealment" by members of the Catholic Church of sexual abuse of children, and the subsequent co-operation of Church officials with relevant police investigations, I do not make such orders lightly. However, the necessity for such procedures arises primarily due to the fact that the present Inquiry was announced against the background of an existing Police investigation (Strike Force Lantle) into alleged concealment of sexual offences by Catholic Church officials. This Inquiry must not compromise any potential future criminal proceedings in any way.

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