

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

**Public Hearing - Case Study C42
(Day C158)**

Newcastle Court House,
343 Hunter Street, Newcastle
Court Room 6.1

On Monday, 8 August 2016 at 10am

Before:

The Chair:	Justice Peter McClellan AM
Commissioner:	Mr Robert Fitzgerald AM
Commissioner:	Mr Robert Atkinson AO APM

Counsel Assisting:	Ms Naomi Sharp
	Ms Kirstie Raffan

1 <KEITH WILLIAM ALLEN, on former oath: [10am]

2

3 MS SHARP: Good morning, your Honour, good morning
4 Commissioners. Could I start with a housekeeping matter.
5 There have been a significant number of additions to the
6 tender bundle. The tender bundle was originally taken into
7 evidence as exhibit 1. Over the weekend, a number of
8 further documents have been circulated to the parties and
9 I understand your Honour and the Commissioners' bundles
10 have been updated.

11

12 I have an index of those supplementary documents which
13 I seek to tender. I was wondering whether your Honour
14 preferred to mark these as a separate exhibit or note
15 amendments.

16

17 THE CHAIR: Have they been added to our bundles?

18

19 MS SHARP: They have been added to your bundles, yes.

20

21 THE CHAIR: Would you just hand he me the index and we
22 will insert the index.

23

24 MS SHARP: Thank you, your Honour.

25

26 THE CHAIR: Is this a full revised index?

27

28 MS SHARP: That is the index of the new documents and
29 I have a full revised index that I can hand up as well.

30

31 THE CHAIR: That is the full revised, one, isn't it, we
32 don't need that one?

33

34 MS SHARP: Yes, your Honour.

35

36 THE CHAIR: I take it everyone has the documents, do they?

37

38 MS SHARP: Yes, they were circulated over the weekend.

39

40 THE CHAIR: Very well. Have we got multiple copies of the
41 revised index?

42

43 MS SHARP: I will just check, your Honour. I am told that
44 the revised index is already in your Honour's bundle and in
45 the Commissioners's bundle.

46

47 THE CHAIR: We don't need it then. Yes!

1 <EXAMINATION BY MS SHARP CONTINUING:
2

3 MS SHARP: Q. Mr Allen, during evidence on Friday you
4 indicated that you could produce some documents to the
5 Commission. Is it right that you have obtained some
6 yearbooks for the Diocese of Newcastle and that you will
7 produce them to the Commission today?

8 A. The yearbooks are in the bag. I have produced two
9 yearbooks in relation to the Reverend Gray and they are
10 flagged as to his date coming to the diocese and leaving
11 the diocese.
12

13 I think I was required to produce the 1990 Year Book
14 and the 1974-75 Year Book and in addition the 1984-85.
15 I cannot find the 1984-85. I have produced the 1983, which
16 was the end of the Synod, and the 1986 which is the
17 conclusion of the 1984-85 Synod.
18

19 I moved house at the end of February with my wife in
20 hospital and the furniture removalist moved us and I have
21 made a search of all of the yearbooks that I can find at my
22 residence.
23

24 Q. To confirm, Mr Allen, you have produced the Year Book
25 for 1974, 1975, 1983, 1986, 1989 and 1990; correct?

26 A. That is correct.
27

28 Q. You were also requested to make available a copy of
29 the files you held in relation to the [CKC] matter. Is it
30 correct that you have made those files available to your
31 solicitor who has in turn produced those to those assisting
32 the Royal Commission?

33 A. That is so.
34

35 MS SHARP: Your Honour, those assisting me are going to
36 review those documents that were just produced this
37 morning. I expect that some time today or shortly after
38 today I will have a supplementary tender following from
39 that review.
40

41 Q. You were asked some questions on Friday about your
42 dealings with respect to [CKM] and Mr Michael Daly,
43 solicitor; do you recall that?

44 A. Yes.
45

46 Q. Could I show you a letter, please, Mr Allen. Could
47 I call that up. It is ANG-0048-001-6210_R. You will see

1 that this is a letter dated 5 July 2010 addressed to
2 Mr John Cleary, the then Registrar or Manager of the
3 Diocese?

4 A. Yes.

5

6 Q. Could I take you to the final page of that letter on
7 page 3. This is your signature?

8 A. That is so.

9

10 Q. Could I take you back to the first page, please,
11 Mr Allen. You will see in the first paragraph you refer to
12 having a longstanding client, [CKM].

13 A. Yes.

14

15 Q. Could I ask you to have regard to the second page of
16 that letter.

17 A. I only have the front page.

18

19 Q. Could you just wait.

20 A. I'm sorry.

21

22 Q. Have a look at the second page of that letter, at the
23 second paragraph, commencing "After the criminal
24 proceedings", it is right that you there record that you
25 had previously written to the Diocese about the matter of
26 [CKM]?

27 A. Yes, that's what the letter says.

28

29 Q. It is right that as at the date of this letter, 5 July
30 2010, you were still acting for [CKM]?

31 A. I don't think that is correct. I wrote this letter,
32 and I am relying entirely on my memory, to tell the Diocese
33 about the matter.

34

35 Q. Could I take you to the first page right at the top to
36 the letterhead, please. It is on the letterhead of JJ Lees
37 & Associates. You will agree that that's a firm of
38 lawyers?

39 A. Yes.

40

41 Q. Were you at that time acting for that firm of lawyers?

42 A. I was a consultant, I believe, to the practice of the
43 late Mr Lees.

44

45 Q. At that time you were acting on behalf of [CKM], were
46 you not?

47 A. I don't think so.

1
2 Q. Why are you writing a letter on a lawyer's letterhead
3 to the Diocese if you were not acting on his behalf in the
4 capacity of a lawyer, Mr Allen?

5 A. I say that - and I am relying on memory - that
6 I finished acting for [CKM] after the 1995 criminal
7 proceedings, but there must have been some contact with me
8 by either Mr Cleary or somebody, and I was asked to set out
9 what the position was, but that's my memory.

10
11 Q. Were you writing the letter at this time to assist
12 [CKM] in advancing a civil claim against the Diocese of
13 Newcastle?

14 A. No.

15
16 MS SHARP: I tender that letter, your Honour.

17
18 THE CHAIR: At the close of the hearing on Friday we were
19 looking at a different document. Just remind me what that
20 document was.

21
22 MS SHARP: I will just have to take instructions on that.
23 I will just have my instructor check through the transcript
24 and I'll answer that in a moment. In the meantime, could
25 I take the witness to another document.

26
27 THE CHAIR: We haven't got this one into evidence yet. Do
28 we have a copy of it,

29
30 MS SHARP: I have two copies.

31
32 THE CHAIR: The letter from Mr Allen to Mr Cleary dated
33 5 July 2010 will be exhibit 42-033.

34
35 **EXHIBIT #42-033 LETTER FROM MR ALLEN TO MR CLEARY**
36 **DATED 05/07/2010 ON LETTERHEAD OF JJ LEES & ASSOCIATES**
37

38 MS SHARP: In relation to your Honour's question about the
39 document we were looking at last Friday, it was a file note
40 prepared by Mr Cleary dated 11 February 2015 which appears
41 at tab 392 of the tender bundle.

42
43 THE CHAIR: Thank you. Yes.

44
45 MS SHARP: Q. Mr Allen, could I show you another
46 document which is ANG.0132.001.0025. Mr Allen, you will
47 see this is on the letterhead of Michael Daly Solicitors,

1 it is dated 1 May 2015 and it is addressed to the Registrar
2 of the Newcastle Diocese.
3 A. Yes.
4
5 Q. You will see in the title heading it is "Re [CKM]"?
6 A. Yes.
7
8 Q. You will see on the last page it is signed
9 "Michael Daly Solicitor"?
10 A. Yes.
11
12 Q. Is that your signature, by any chance?
13 A. No.
14
15 Q. You will see on that last page, if I can ask that it
16 be scrolled up, a without prejudice settlement is offered?
17 A. Yes. I can see that - yes.
18
19 Q. Did you have any conversations with Mr Daly, or anyone
20 else acting in his firm, in relation to this settlement
21 offer being made on behalf of [CKM] to the Diocese?
22 A. No.
23
24 MS SHARP: I tender that letter, your Honour. I have
25 three copies to hand up.
26
27 THE CHAIR: Q. Mr Allen, could I just go back to the
28 previous letter, the letter of 5 July. I think you told
29 counsel that you weren't acting for [CKM] at the time?
30 A. I ceased acting for [CKM] at the conclusion of the
31 criminal proceedings in I think 1995, sir.
32
33 Q. Could we just put the letter back on the screen. In
34 the middle of the second page, you speak there of having
35 specific instructions and speak of your client. How do
36 I reconcile the two?
37 A. Sir, I have no specific recollection of that letter
38 and as to the words about specific instructions, that
39 relates - well, I think it relates to the rector at
40 The Entrance, but I have - I certainly didn't act for
41 [CKM], sir, after 1995.
42
43 Q. Although you describe him as your client?
44 A. I agree with what the words set out in the letter are,
45 sir.
46
47 THE CHAIR: Very well. The next letter is from Mr Daly --

1 is it?

2

3 MS SHARP: Yes.

4

5 THE CHAIR: -- to the Registrar. That letter dated 1 May
6 2015 will be exhibit 42-034.

7

8 **EXHIBIT #42-034 LETTER FROM MR ALLEN ON MICHAEL DALY**
9 **SOLICITORS LETTERHEAD TO THE REGISTRAR OF THE NEWCASTLE**
10 **DIOCESE DATED 01/05/2015**

11

12 MS SHARP: Q. Can I move to a different topic, Mr Allen.
13 Bishop Holland was the Bishop of the Diocese from 1978
14 until 1992; that's correct, isn't it?

15 A. I probably think so.

16

17 Q. I think you told us last Friday that you had the ear
18 of that Bishop?

19 A. I had contact with Bishop Holland as the Chairman of
20 Committees when I was appointed and as a trustee of the
21 Diocese, and as a member of the Diocesan Council.

22

23 Q. I want to take you back to the 11 February 2015
24 file note that Mr Cleary took, which is at tab 392. I want
25 to take you to a different part of it now. Could I take
26 you firstly to the second page.

27 A. Hold on. I'm sorry?

28

29 Q. Tab 392. Mr Allen, could I take you to the second
30 page and you will see there is a heading
31 "Royal Commission"?

32 A. Could it be scrolled up slightly more?

33

34 Q. Yes. Could I have enlarged, please. Could I have
35 that scrolled down to the heading "Royal Commission".
36 Could I take you over to the next page, please, Mr Allen,
37 to the top of that page. Is that large enough for you to
38 read, Mr Allen?

39 A. It is.

40

41 Q. I want to ask you some questions about this note. It
42 firstly says:

43

44 *Allen is intending to obtain a medical*
45 *certificate for former Bishop Alfred*
46 *Holland (approximately 90yo now) that is in*
47 *no fit state to give evidence to the*

1 *Royal Commission.*

2
3 Did you tell Mr Cleary that during that meeting?

4 A. I don't think I used those words and my memory is that
5 I advised Mr Cleary that I had previously acted for the
6 Bishop, it may be that he can't give evidence, that he's
7 elderly, to the Commission.

8
9 Q. So you're saying Mr Cleary recorded what you said
10 incorrectly?

11
12 THE CHAIR: Well, no.

13
14 Q. The question is - whether or not they're the exact
15 words, is that the effect of what you said?

16 A. No, sir.

17
18 Q. You say that Mr Cleary has got that wrong, do you?

19 A. I'm saying his interpretation on the conversation
20 I think, sir, is wrong.

21
22 Q. You say it's wrong?

23 A. Yes.

24
25 THE CHAIR: All right.

26
27 MS SHARP: Q. Can I take you to the next dot point:

28
29 *Allen has previously advised me, as*
30 *Holland's legal adviser, that he would be*
31 *advising Holland to say that he cannot*
32 *recall anything.*

33
34 At any time did you tell Mr Cleary that you would be
35 advising Bishop Holland to tell the Royal Commission he
36 couldn't recall anything?

37 A. No. Again, my memory is that this was a general
38 discussion on a number of issues and I don't think -
39 I don't remember those words recorded by Mr Cleary being
40 used.

41
42 THE CHAIR: Q. No, it is not a question of the words.
43 Did you say words to that effect to Mr Cleary?

44 A. No, sir.

45
46 Q. So you say Mr Cleary has got it wrong, do you?

47 A. That's my memory, sir.

1
2 Q. Do you say he's got it wrong?
3 A. Yes.
4
5 Q. In some way he has put on paper words to the effect of
6 something you say you never said; is that right?
7 A. Yes, not in the context of Mr Cleary's transcription.
8
9 Q. The context doesn't matter. The question is: did you
10 say, as previously advised on some prior occasion, that, as
11 Holland's legal adviser, you would be advising him that he
12 cannot recall anything?
13 A. I don't remember those words being said as set out by
14 you, sir.
15
16 Q. What do you remember being said about that subject?
17 A. Again, I'm relying on memory. I didn't make any
18 notes.
19
20 Q. Of course you are relying on memory but this is a
21 written note made at the time?
22 A. Yes.
23
24 Q. It's not a bad starting point, Mr Allen.
25
26 MR WATTS: I object to your Honour's comment to that
27 effect. It is not a contemporaneous note about that
28 conversation. The note clearly indicates it is an earlier
29 conversation at who knows when.
30
31 THE CHAIR: We will take that point.
32
33 Q. It is a note made years ago earlier than today;
34 correct?
35 A. Yes, sir.
36
37 Q. Just tell me again - did you ever say anything to that
38 effect to Mr Cleary?
39 A. Not in those words, no, sir.
40
41 Q. What words did you use?
42 A. There was - I am relying on my memory - a general
43 discussion that Bishop Holland was now elderly and it may
44 be that he could or could not give evidence. I had
45 previously acted for the Bishop but I never contacted the
46 Bishop.
47

1 Q. That's not the purport of these words. These words
2 have you saying or that you would advise Holland to say
3 that he cannot recall anything. That is not a question of
4 not giving evidence, that's telling him to act dumb, as it
5 were?
6 A. No, sir, I - again, relying on my memory, this was a
7 discussion and I can't remember the words about this Bishop
8 was an elderly person and it may be that he could or
9 couldn't give evidence. I don't know.
10
11 MS SHARP: Q. You say you previously acted for the
12 Bishop. When was that?
13 A. Shortly prior to his retirement.
14
15 Q. In what context?
16 A. He purchased a house and I prepared some testamentary
17 documents for the Bishop.
18
19 Q. Have you ever had any conversations with
20 Bishop Holland about giving evidence at this
21 Royal Commission?
22 A. No.
23
24 Q. When was the last time you had any contact with
25 Bishop Holland?
26 A. I think I received a Christmas card about two to two
27 and a half years - two years ago, two Christmases ago.
28
29 Q. Do you say that's the last contact you had with
30 Bishop Holland?
31 A. This was the card from Bishop Holland and I've had no
32 contact with him.
33
34 Q. Have you ever suggested to Bishop Holland that he
35 ought not remember things if questioned by the
36 Royal Commission?
37 A. No.
38
39 Q. Have you ever suggested to Bishop Holland that he
40 ought consider getting a medical certificate if required to
41 give evidence by the Royal Commission?
42 A. No.
43
44 Q. It sounds from this file note that Mr Cleary took that
45 you had some concerns about Bishop Holland giving evidence
46 to this Royal Commission. That's right, isn't it, you did
47 have concerns about Bishop Holland giving evidence to this

1 Royal Commission?
2 A. I don't know whether the concern is correct or
3 incorrect, but for people who are in their very senior
4 years, it can be, in my experience, a difficult decision.
5
6 Q. Mr Allen, that's not what I mean. Did you have
7 concerns that Bishop Holland may give evidence to this
8 Royal Commission that was either unfavourable to him or
9 unfavourable to the Diocese of Newcastle?
10 A. No.
11
12 Q. You never held those concerns?
13 A. No. I thought - no.
14
15 Q. Is that the truth, Mr Allen?
16 A. Yes.
17
18 Q. There are some other aspects of that file note that
19 I will return to and ask you some questions about,
20 Mr Allen. For now, can I move on to ask you some questions
21 about Stephen Gray.
22 A. Yes.
23
24 Q. Do you know who I'm referring to? I don't think you
25 need any documents to answer that question. You know who
26 I am referring to?
27 A. Yes. Yes, I know Stephen Gray was the Rector of
28 Wyong.
29
30 Q. So you do know who I am referring to?
31 A. Yes.
32
33 Q. Of course, you are well aware that he was prosecuted
34 for a child sex offence?
35 A. Yes.
36
37 Q. And you, in fact, acted as his solicitor for the
38 purpose of that prosecution?
39 A. Yes.
40
41 Q. How was it that you came to be his solicitor for the
42 purpose of that prosecution?
43 A. Relying on my memory is I think he rang me up, or
44 maybe some other person rang me up, but I am not certain.
45 Somebody rang me and I went to the Wyong Church Hall.
46
47 Q. Did you commence acting for him after he was charged

1 or before he was charged?
2 A. I think it was after he was charged. He had no reason
3 to ring me before that.

4
5 Q. Are you aware of why it was that he came to you? Did
6 you have any discussions with him about that?

7 A. No. Either he or some other person rang me, and
8 I think it was Mr Gray but I am not certain.

9
10 Q. Who was that some other person who might have called
11 you?

12 A. The late Archdeacon of the Central Coast, David Bowden
13 - Archdeacon Bowden - who later became Bishop of Ballarat
14 may have rung me. I am not certain.

15
16 Q. Did you have conversations with Bishop Holland about
17 this prosecution of Stephen Gray?

18 A. Yes, Bishop Holland rang me - this is my memory.
19 Bishop Holland rang me some days later and said he wanted
20 to come down and give evidence for Gray. I said words to
21 this effect, "Bishop, I don't think that would be a good
22 idea. You would probably be on the Sydney Morning Herald
23 with some caption" about him being in favour of homosexual
24 activity. I then, if my memory serves, asked him for a
25 reference, or could he provide a reference or would he
26 provide a reference and I said that I didn't know whether
27 the reference would or would not be used. On that
28 conversation, my memory is that Bishop Holland knew the
29 nature of the charges.

30
31 Q. I'll stop you there. To your understanding, from your
32 conversations with Bishop Holland, was Bishop Holland aware
33 that Stephen Gray had been charged with a child sex
34 offence?

35 A. Yes.

36
37 Q. And you're quite clear about that?

38 A. Yes.

39
40 Q. Can I show you exhibit 20, please, Mr Allen. You will
41 see that that is a letter with your letterhead, dated
42 30 May 1990, addressed to Bishop Holland?

43 A. Yes.

44
45 Q. You will see it refers to the matter of Stephen Hatley
46 Gray?

47 A. Mmm. Yes.

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Q. You will see in the third paragraph --

A. I can't see the third paragraph.

Q. I'll ask that that be enlarged.

A. That's all right.

Q. You ask the Bishop to provide a reference?

A. Yes.

Q. I take it that as a diligent solicitor, you would make some effort to make a potential referee aware of the nature of the matter in which you requested a reference?

A. Yes.

Q. It is right, isn't it, that you were asking Bishop Holland to provide a reference for the purpose of Stephen Gray's criminal prosecution?

A. Yes.

Q. There was no other reason you were asking Bishop Holland to provide a reference at that stage?

A. No.

Q. May we take it that you did, in fact, make Bishop Holland aware of the nature of the crime that was alleged against Mr Gray?

A. Yes.

Q. You have no doubt about that whatsoever?

A. No.

Q. Is it right that at some stage you told Bishop Holland that you would handle the matter and he need not involve himself in it?

A. That conversation related to the Bishop wanting to come to give evidence in the District Court, and my memory is those words were said by me to the Bishop after I said I didn't think he should come down and give - or it would be unacceptable for him to give evidence.

Q. Could I show you a document at exhibit 18, please, Mr Allen.

A. Yes.

Q. You will see this is a Crime Information Report?

A. Yes.

1
2 Q. Could I draw your attention, please, sir, to about the
3 fourth row down on the left-hand side. It says:

4
5 *TYPE OF INCIDENT*
6 *HOMOSEXUAL INTERCOURSE WITH MALE OVER 10-16*
7 *YEARS.*
8

9 A. Yes.

10
11 Q. Is it right that as the solicitor acting in the
12 matter, you were provided with this Crime Information
13 Report for the purpose of the criminal prosecution?

14 A. I have no memory of receiving that report.
15

16 Q. Your ordinary expectation, though, as the solicitor
17 acting for the defendant, is you would be served with the
18 brief of evidence?

19 A. Subsequently, I had a copy of the charge sheet and the
20 short facts in my memory, but not that document.
21

22 Q. Could I draw your attention to another part of this
23 document, about six rows down, on the right-hand side, it
24 says "Time Day Date reported"?

25 A. Yes.
26

27 Q. Can you see it says it was at 5.15am on 12 February
28 1990?

29 A. Yes.
30

31 Q. Could I then show you a document, please, Mr Allen, at
32 tab 430D of the bundle. You will see that first page is
33 headed "FACTS RELATIVE TO STEPHEN HATLEY GRAY"?

34 A. Yes.
35

36 Q. Could I then ask you to have regard to the third and
37 last page of that document, to the bottom of the third
38 page. You will see that it is signed by a
39 detective sergeant at the police station?

40 A. Yes.
41

42 Q. Take the time you need. I want to know whether these
43 were the facts that were presented to the court.

44 A. (Witness reads document).
45

46 Q. Perhaps we could show Mr Allen the first page and work
47 from there. I will take you through these facts --

1
2 THE CHAIR: Do you have a hard copy? Perhaps it would be
3 best if he worked from a hard copy.
4

5 MS SHARP: Yes, I will see if one can be made available.
6 Your Honour, I don't think an A4 copy is immediately
7 available in hard copy to provide to the witness.
8

9 Q. Mr Allen, could I take you to the third paragraph of
10 that first page. I note that a small A5 copy has been
11 provided.
12

13 THE CHAIR: If you would like to, Ms Sharp, you can work
14 from the A5 copy, it might be easier for you. It is the
15 same letter, it is just on a reduced scale.
16

17 (Shown to witness)
18

19 MS SHARP: Q. I am told you have been given an
20 unredacted copy of that document, so please do not name
21 names, but having a look at that and having a look at the
22 signature by the police officer, can you tell me, as the
23 solicitor acting for Mr Gray, was that the copy of the
24 facts that were handed up to the court in this prosecution?
25

26 MR WATTS: Your Honour, I think I know where my friend is
27 going. I am assuming she means the District Court. Those
28 facts may well have gone to the Local Court but if
29 ultimately we are talking about the District Court, perhaps
30 that's where the question could be directed, if that's
31 where my friend wants to go.
32

33 MS SHARP: I am happy to clarify the matter, your Honour.
34 May I make a redacted A4 copy of the document available?
35

36 (Shown to witness)
37

38 MS SHARP: Q. Can I ask you some clarifying questions,
39 Mr Allen. It is correct that Reverend Gray pleaded guilty
40 to the offence?

41 A. In the District Court, yes.
42

43 Q. Yes. All right. It is right that when a defendant
44 pleads guilty and is awaiting sentence, a copy of facts are
45 ordinarily handed to the sentencing judge?

46 A. Yes, I would agree with that.
47

1 Q. Are these the facts that were handed to the sentencing
2 judge for the purpose of imposing sentence upon
3 Stephen Gray?
4 A. I do not know.
5
6 Q. Can I ask you some further questions about this
7 document, please, Mr Allen. Can I start on the first page,
8 the third paragraph. You will see that the event is
9 recorded as happening on 12 February 1990?
10 A. I see that.
11
12 Q. Can I take you over the page, please. You will see at
13 the first paragraph some detail is provided about what
14 allegedly happened?
15 A. Yes.
16
17 Q. You will see in the second paragraph that the
18 prisoner, that is, Stephen Gray, was interviewed on
19 12 February 1990 by the police?
20 A. Yes.
21
22 Q. Did you attend that interview?
23 A. No.
24
25 Q. Were you involved in the matter at that time?
26 A. I don't - I don't know. I don't think so because
27 I wasn't present at any interview.
28
29 Q. Can I take you to the third page, to the second-last
30 paragraph.
31 A. Yes.
32
33 Q. You will see that the victim was taken to the Gosford
34 District Hospital on the morning of 12 February 1990?
35 A. I see that.
36
37 Q. It is pretty clear, isn't it, that the incident
38 occurred on 12 February 1990?
39 A. It appears so.
40
41 Q. Could I now show Mr Allen tab 11B. This is one of the
42 documents that was circulated over the weekend as part of a
43 supplementary tender. Just to be clear, you were at all
44 times aware that the nature of the allegation was that
45 Reverend Stephen Gray anally penetrated a 14-year-old boy?
46 A. Yes.
47

1 Q. Against his will?
2 A. Yes.
3
4 Q. You will see that this is a bond dated 7 September
5 1990?
6 A. Yes.
7
8 Q. If I ask that the document be scrolled down, and
9 scrolled down a little further, you will see that Mr Gray
10 was sentenced to a three-year good behaviour bond following
11 his plea of guilty to anally penetrating a 14-year-old boy?
12 A. Yes.
13
14 Q. In your experience, in representing defendants, was
15 that a remarkably good result for a charge of this nature?
16 A. Probably, yes, or probably generous.
17
18 Q. It was very generous, wasn't it, Mr Allen?
19 A. I would have thought it was generous or very generous,
20 in your words, ma'am.
21
22 Q. Could I now show you the indictment. This is 11D of
23 the supplementary tender. You will see that that
24 indictment is dated 7 September in relation to Mr Gray?
25 A. Yes.
26
27 Q. You will see that the charge relates to an event
28 occurring on 12 February 1990?
29 A. Yes.
30
31 Q. Could I ask you to scroll to the bottom of that
32 document, please. You will see that the Crown Prosecutor
33 is recorded as Mr Paul Rosser QC?
34 A. Yes.
35
36 Q. Is it right that he was the prosecutor in this matter?
37 A. I didn't think so, relying on my memory.
38
39 Q. Did he appear in the matter, Mr Allen?
40
41 THE CHAIR: Q. The document is clearly Mr Rosser's
42 document, isn't it?
43 A. I don't think Mr Rosser appeared but I --
44
45 Q. Mr Allen, this is Mr Rosser's document, isn't it?
46 A. Yes.
47

1 MR B00TH: I object your Honour. It doesn't necessarily
2 follow that Mr Rosser appeared because he has --
3
4 THE CHAIR: I didn't suggest it did, but he signed the
5 indictment, didn't he?
6
7 MR B00TH: Yes, he did, your Honour.
8
9 THE CHAIR: Right. Well, there you are.
10
11 MS SHARP: Q. Did Mr Rosser appear in this matter on
12 behalf of the Crown?
13 A. I don't think Mr Rosser appeared and I can't remember
14 who appeared.
15
16 Q. Did you have any dealings with Mr Rosser acting on
17 behalf of the Crown in relation to the prosecution of
18 Stephen Gray?
19 A. No.
20
21 Q. Are you sure about that?
22 A. Positive.
23
24 Q. At that time, that is September 1990, did you know
25 Mr Rosser?
26 A. My memory is I met Mr Rosser many, many years ago in a
27 matter at the District Court in Gosford, but I think it
28 might have been before that date.
29
30 Q. By this time, that is September of 1990, was it your
31 understanding that Mr Rosser was involved in the governance
32 of the Diocese of Newcastle?
33 A. I don't specifically know but Mr Rosser was on the
34 Synod and at some stage was the Deputy Chancellor and at
35 some stage the Chancellor. I don't have the dates.
36
37 Q. In your capacity as defence representative for
38 Mr Gray, did you have any conversations or dealings with
39 the Crown about the appropriate sentencing range for
40 Stephen Gray?
41 A. No.
42
43 Q. You say you didn't?
44 A. I had - I had counsel appearing, Mr Fennell. I don't
45 know what conversations Mr Fennell had.
46
47 Q. Your evidence is that you personally had no dealings

1 whatsoever with any representative of the Crown about an
2 appropriate sentencing range for Mr Gray?

3 A. No.

4
5 Q. Can I show you another document, please, Mr Allen.
6 This is tab 11A of the supplementary bundle. Do you see
7 this is on the letterhead of the Reverend David Williams?

8 A. Yes.

9
10 Q. You will see it is dated 3 September 1990?

11 A. Yes.

12
13 Q. And you will see it relates to Mr Gray?

14 A. Yes.

15
16 Q. You will see it is addressed to "The Presiding Judge"?

17 A. Yes.

18
19 Q. May we take it this is a document that you obtained to
20 present to the District Court upon the sentencing of
21 Mr Gray?

22 A. The document either was obtained by me or by somebody
23 else in respect of Mr Gray. I don't specifically remember
24 but I know that the document - or the reference was at the
25 District Court sentencing.

26
27 Q. The District Court sentencing was on 7 September 1990
28 and this document was on 3 September 1990. Does that
29 suggest to you that this is almost undoubtedly a document
30 that was used for the purpose of the sentencing of
31 Stephen Gray?

32 A. Yes.

33
34 Q. I take it this is a document that you have seen
35 before?

36 A. I know that the person named as the author of the
37 reference is a person that I only met as a result of these
38 proceedings.

39
40 Q. Can I take you through this document, please,
41 Mr Allen. You will see that Reverend Williams says in the
42 first paragraph that he was a former senior officer of
43 New South Wales Probation & Parole?

44 A. Yes.

45
46 Q. Could I take you now to the third paragraph on the
47 first page. You will see that he states he has been a

1 priest in the Anglican Church since 1955?

2 A. Yes.

3

4 Q. Could I take you to the last paragraph on the first
5 page. It says:

6

7 *... Stephen Hatley Gray who is to appear*
8 *for sentence at the Gosford District Court*
9 *on 7th September 1990 ...*

10

11 A. Yes.

12

13 Q. You will see that Reverend Williams refers to the
14 offence that he has pleaded guilty to?

15 A. Yes.

16

17 Q. Can I take you to the second page. You will see in
18 the second paragraph Reverend Williams says:

19

20 *In the preparation of this report,*
21 *Stephen Gray has been the subject of three*
22 *conversations I have had with the Bishop of*
23 *Newcastle ...*

24

25 A. Yes.

26

27 Q. Are you able to tell us anything about your awareness
28 of these three conversations with the Bishop of Newcastle?

29 A. No.

30

31 Q. Were you present at those conversations?

32 A. No.

33

34 Q. Can I take you please, Mr Allen, to the middle of that
35 page under the heading "Personal circumstances at the time
36 of the offence". You will see that last sentence says:

37

38 *He resigned from the Parish immediately*
39 *after he was charged with the present*
40 *offence.*

41

42 A. I see that.

43

44 Q. Can I take you to the third page, the top paragraph.
45 You will see at the end of that paragraph it is recorded
46 that Reverend Gray trained at Morpeth College?

47 A. Yes.

1
2
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Q. And was awarded a Diploma of Theology in 1974.
A. Yes.

Q. You will see, if I can take you to the bottom of page 5, there is a heading: "The situation on the night of the offence". Could I then take you to the final page. You will see at paragraph 6 it is stated:

I have discussed his future with the Bishop of Newcastle ...

A. Yes.

Q. That being Bishop Holland, and also with the Bishop of Ballarat?
A. Yes.

Q. You will see it says:

Both bishops are aware of his great gifts and they do not regard this offence as necessarily an indelible impediment to his rehabilitation to work as a priest in the future.

A. I see that.

Q. This is a document that was obtained to put before the court?
A. Yes.

Q. You understand that it was important at all times to provide a truthful account of what happened to the court?
A. Yes.

Q. Are you aware that Bishop Holland had had discussions with Stephen Gray about this offence?
A. No.

Q. Do you have any reason whatsoever to doubt that those conversations were had in view of this reference?
A. No, I don't. The reference speaks for itself.

Q. Could I take you, Mr Allen, to tab 418. You will see this is a letter from you to the Bishop of Newcastle.
A. Yes, I see that.

1
2 Q. Of course, given the date is 20 January 2016, that is,
3 of course, Bishop Thompson?
4 A. Yes.
5
6 Q. Could I ask you to scroll down that letter, please.
7 Could I ask you to look further down that first page. You
8 will see there's a reference:
9
10 *Another priest resigned from a Parish in*
11 *the Diocese before being charged and*
12 *I appeared for him in criminal proceedings.*
13
14 A. Is this in relation to Gray?
15
16 Q. I was going to ask you that.
17 A. May I just read?
18
19 Q. Yes.
20 A. A. Yes, that - may I go on?
21
22 Q. What you are saying there related to Stephen Gray,
23 didn't it?
24 A. I don't think so.
25
26 Q. Have you acted - I'll leave aside [CKC] - for any
27 other priests in the Diocese of Newcastle who have been
28 charged with child sex offences?
29 A. No.
30
31 Q. All right. We'll leave aside [CKC]. Surely this is a
32 reference to Stephen Gray, isn't it?
33 A. I would have thought so but I'm relying - I don't -
34 I would have thought so.
35
36 Q. Let's work through a process of elimination here.
37 There are only two priests of the Diocese of Newcastle for
38 whom you have acted in relation to child sex offences;
39 correct?
40 A. Correct.
41
42 Q. You are not here referring to [CKC], are you?
43 A. No.
44
45 Q. By a process of elimination, this must be a reference
46 to Stephen Gray, must it not?
47 A. I acted in the criminal proceedings for the victim of

1 the assault --

2

3 Q. No, no, I will direct your attention to the relevant
4 paragraph: It says:

5

6 *Another priest resigned from a Parish in*
7 *the Diocese before being charged and*
8 *I appeared for him in criminal proceedings.*

9

10 That's a reference to Stephen Gray, is it not?

11 A. Yes, I would have thought so. Yes.

12

13 Q. And what you are telling the current Bishop of the
14 Diocese is that the priest resigned "before being charged"?

15 A. Yes.

16

17 Q. Was that the truth, Mr Allen?

18 A. I understand - I didn't - I understood that the priest
19 concerned did offer a resignation prior to being charged,
20 but I don't - I don't specifically know and I didn't draft
21 the resignation.

22

23 Q. All right. I have taken you to a signed statement of
24 facts by a police officer and I have taken you to the
25 police report. We know from that that the incident
26 occurred on 12 February and Mr Gray was interviewed by the
27 police on 12 February, don't we?

28 A. Yes.

29

30 Q. Can I show you Stephen Gray's resignation at tab 5.
31 You will see that that is signed by Stephen Gray?

32 A. Yes.

33

34 Q. You will see that this is addressed to the Bishop of
35 Newcastle?

36 A. Yes.

37

38 Q. You will also see that it is dated 11 February 1990.
39 Do you see that?

40 A. Yes. Sorry.

41

42 Q. Can you account for any reason why the day before the
43 incident occurred, also being the day before Reverend Gray
44 was charged, he wrote out his resignation?

45 A. I can't give a reason as to why it is dated
46 11 February and I don't --

47

1 Q. Can't you?
2 A. Beg your pardon?
3
4 Q. Can't you give a reason?
5 A. And the only possible reason would be that he would
6 still be in good standing with his Bishop when he resigned
7 and that may facilitate him going to another parish.
8
9 Q. What can you tell us about this date of resignation,
10 Mr Allen?
11 A. I can't take it any further than that. I don't think
12 I - I know I wasn't present when that document was
13 prepared.
14
15 Q. All right.
16 A. And I don't know when it was prepared.
17
18 Q. Is it right that you very seriously doubt that this
19 resignation occurred on 11 February 1990?
20 A. I would have thought that it was dated to allow the
21 priest to remain in good standing.
22
23 Q. Are you suggesting there that it has been backdated in
24 some way?
25 A. Well, I don't know, but maybe it has. I don't
26 honestly know.
27
28 THE CHAIR: I think it is fairly clear what he is saying.
29
30 MS SHARP: Yes.
31
32 Q. You are aware that Bishop Richard Appleby has given
33 evidence that he was sent down to Stephen Gray to obtain
34 his resignation after becoming aware of "a serious
35 disturbance"?
36 A. Yes.
37
38 Q. Did you have any dealings with Bishop Appleby about
39 the date of this resignation?
40 A. No, not to my memory.
41
42 Q. You never had any dealings at all with Bishop Appleby
43 in relation to Stephen Gray's resignation?
44 A. No.
45
46 Q. Is that the truth?
47 A. Yes.

1
2 Q. This is not the date of Stephen Gray's resignation, is
3 it?
4 A. I don't know.
5
6 Q. To your knowledge, Stephen Gray did not resign until
7 after the incident occurred, until after he was charged?
8 A. I think that's probably right but I don't know how the
9 date is the date on the document, and I didn't write the
10 document.
11
12 Q. Did you have anything to do with this document being
13 dated 11 February 1990?
14 A. No, not to my knowledge.
15
16 Q. Did you at some stage tell Mr Cleary that you had
17 ripped up the original resignation of Stephen Gray?
18 A. There was some discussion that the original
19 resignation was inappropriate, that's all I know.
20
21 Q. Did you tell John Cleary that you ripped up the
22 original resignation?
23 A. I may have, I may not have. I honestly cannot
24 remember. This is - this document is 1990.
25
26 Q. If you may have told Mr Cleary that you ripped up the
27 original resignation, did you rip up the original
28 resignation?
29 A. I have no specific memory but I may have.
30
31 THE CHAIR: Q. Mr Allen, that is not the sort of thing
32 you forget. Did you rip it up?
33 A. There was a resignation that I think I destroyed and
34 another resignation was prepared but I didn't --
35
36 Q. Was the date different in each of those resignations?
37 A. I don't know.
38
39 Q. Why was it ripped up and another one prepared?
40 A. I cannot remember but I can't remember the date of it
41 either.
42
43 Q. The only relevant reason for providing two, given the
44 content of this document, would be the date, wouldn't it?
45 A. Yes, sir.
46
47 Q. So we can conclude, can we, that the original

1 resignation was destroyed and replaced by another one with
2 an altered date?
3 A. The original one was destroyed, I don't know about the
4 date of this document, but I can only say that the document
5 is dated 11 February.
6
7 Q. Can we conclude that you destroyed the original one?
8 A. My memory is that I may have, yes.
9
10 MS SHARP: Q. Mr Allen --.
11
12 THE CHAIR: Q. Just think about it really hard - may
13 have or did you do it?
14 A. I think I did it, yes.
15
16 THE CHAIR: All right.
17
18 MS SHARP: Q. Mr Allen, you this morning produced a
19 number of Newcastle Diocese yearbooks, including the Year
20 Book for 1990?
21 A. Yes.
22
23 Q. Are you aware that at page 62 of this document it
24 records the Reverend Stephen Gray as resigning on
25 11 February 1990?
26 A. I understand what is in the book, yes.
27
28 Q. So you are aware of that fact?
29 A. I produced that book to the Commission.
30
31 Q. Yes. You are aware that this document quite
32 misleadingly says that Stephen Gray resigned on 11 February
33 1990?
34 A. The document speaks for itself. It's a Year Book of
35 the diocese.
36
37 Q. So is the answer "yes"?
38 A. Yes, that - well --
39
40 MS SHARP: I will tender that extract in due course,
41 your Honour, once it has been photocopied.
42
43 THE CHAIR: Thank you.
44
45 Q. Mr Allen, as I understand it, by changing the date,
46 Mr Gray would be provided with an opportunity to go
47 somewhere else, it being recognised by the church that at

1 the time of his resignation he was in good standing with
2 his Bishop?
3 A. That's so, yes.
4
5 Q. Which would be an advantage to Mr Gray, wouldn't it?
6 A. Well, I presume so, sir.
7
8 Q. That's the reason you would do it, I would assume?
9 A. Yes.
10
11 Q. So he can get another parish; would that be right?
12 A. You can't move from diocese A to diocese B unless
13 you're in good standing with your Bishop.
14
15 Q. So by changing the date, what has happened is that a
16 document has been made available which allows a false
17 representation to be made to another diocese, doesn't it?
18 A. I don't know what transactions take place between
19 Bishop to Bishop in a different - in other dioceses.
20
21 Q. But the document on its face is false and would allow
22 a false representation to be made, wouldn't it?
23 A. Yes.
24
25 Q. You were party to the circumstances in which the false
26 document was created, weren't you?
27 A. Yes, I certainly destroyed the first resignation.
28
29 Q. Do you see, in ordinary language, it looks like a
30 fraud, doesn't it?
31 A. No. It facilitated Mr Gray's status and whether it is
32 a fraud --
33
34 Q. It is a false representation as to his status, isn't
35 it?
36 A. It could be described as that, sir.
37
38 MS SHARP: Q. What if this victim had pursued a civil
39 claim against the Diocese, wouldn't the official record of
40 11 February as the date of the resignation be wholly
41 misleading?
42 A. It could be.
43
44 Q. Well, it is, isn't it, Mr Allen?
45 A. Right, yes.
46
47 Q. You agree with that?

1 A. Yes.
2
3 Q. At whose request was the resignation date changed?
4 A. Not at mine.
5
6 Q. So at whose?
7 A. I don't know, but there was discussion as to the
8 resignation date.
9
10 Q. Who was that discussion with, Mr Allen? This is not
11 the kind of thing you forget.
12 A. My memory is that it was, I think, the late Archdeacon
13 Bowden, I think he was there when I was there.
14
15 Q. What about Bishop Appleby?
16 A. I never saw Bishop Appleby.
17
18 Q. Are you saying you never dealt with Bishop Appleby
19 about this matter?
20 A. That's my memory.
21
22 Q. Didn't you request in writing that he provide a
23 reference in this case?
24 A. Yes.
25
26 Q. You had some dealings with Bishop Appleby about this
27 matter, didn't you?
28 A. But that would have been after this.
29
30 Q. Yes. So you did have dealings with Bishop Appleby
31 about this matter?
32 A. About a reference.
33
34 Q. We are told by Bishop Appleby that he in fact went to
35 Stephen Gray's parish to procure the resignation. Did you
36 have any discussions with him about the date of the
37 resignation?
38 A. No.
39
40 Q. What about Bishop Holland?
41 A. No.
42
43 Q. Are you sure about that?
44 A. Yes.
45
46 Q. You regard Stephen Gray as a dangerous sexual
47 predator, don't you?

1 A. Yes, he wasn't the most honourable person I would have
2 thought.

3

4 Q. You regard him as a dangerous sexual predator, don't
5 you?

6 A. Yes.

7

8 Q. Is that based upon more than one instance of abuse
9 that was dealt with in his criminal prosecution?

10 A. No. My memory was that was the only incident, but it
11 was particularly bad or unpleasant.

12

13 Q. Hence, it being quite remarkable that he received a
14 three-year good behaviour bond in relation to the incident?

15 A. Yes, he was generously dealt with, I think.

16

17 Q. Are you aware of any other allegations being made that
18 he sexually abused boys while he was a priest within the
19 Diocese of Newcastle?

20 A. No.

21

22 Q. I want to move on now to ask you some questions about
23 the prosecution of [CKC] --

24

25 THE CHAIR: Just before you do.

26

27 MS SHARP: Yes.

28

29 THE CHAIR: Q. Back on that letter of 20 January to the
30 Bishop - you have the last page in front of you there; is
31 that right?

32 A. That's Mr Rosser's --

33

34 Q. No, your letter to the Bishop of 20 January 2016. It
35 is document 418. Could we bring up the last page of it?
36 Do you see there you complain about having been removed by
37 the Bishop, but you say:

38

39 *I am not against "healing of the Church"*
40 *but it must include many of the Church's*
41 *organisations to bring healing to society*
42 *in general.*

43

44 What did you have in mind was necessary?

45 A. In my view there are perhaps Church organisations that
46 haven't embraced the healing of the Church and there is a
47 perception, I think, in society that the Church hasn't

1 always embraced healing of the Church.

2

3 Q. What do you think is necessary? What should be done?

4 A. I think that there needs to be an open process where
5 those that are aggrieved can be heard and dealt with, and
6 those that are offending can also be counselled and dealt
7 with in an endeavour to resolve the issues, bearing in mind
8 that sometimes issues will not always be able to be
9 resolved.

10

11 Q. What issues are you talking about?

12 A. On occasions there will be parishioners who will not
13 agree with their parish priest and there are probably
14 occasions where that healing or mediation process either
15 doesn't take place, or doesn't take place positively and
16 appropriately.

17

18 Q. As I understand it, what the Bishop was saying was he
19 thought that you had acted in positions where you had
20 conflicts; is that right?

21 A. I understand the Bishop's perception, but I had a
22 right to private practice and my position in the Church was
23 never subject to conditions as to receiving instructions in
24 matters where I was to act for a priest.

25

26 Q. The concerns which the Bishop had were in the context
27 of you acting in relation to sexual assault matters, wasn't
28 it?

29 A. I don't know - yes, I think so, but I don't know
30 whether he expressed it or I understood it correctly, but
31 that - yes.

32

33 Q. You included the words "healing of the Church", in
34 inverted commas. I take it that is a reference to the
35 Bishop's words? The "healing of the Church" is in inverted
36 commas and I take it that is a reference by you to the
37 Bishop's words?

38 A. I think it came from something that the Bishop
39 produced but I can't remember.

40

41 Q. In the context of sexual assault problems in the
42 diocese - would that be right?

43 A. I would have thought so, yes, sir.

44

45 Q. What do you think needed to be done in relation to the
46 "healing of the Church" with respect to sexual assault
47 matters?

1 A. I think that there are degrees of transgressions by
2 people. At the higher end, I think that the Church
3 probably has to say you can't be a member of the Church; at
4 the lower end of the scale, reconciliation may or may not
5 be able to be perceived or achieved in relation to some
6 offences. I mean, for argument's sake, if a priest were to
7 assault a parishioner, that should be able to be resolved.
8 I'm not talking about sexual assault, sir.

9
10 Q. Maybe I have exhausted the topic, but the next
11 sentence you have is:

12
13 *I note you have not appointed a person as*
14 *my Chaplain.*

15
16 A. Yes.

17
18 Q. Can you explain that to me?

19 A. Yes. The Bishop took certain proceedings to have me
20 declared a person who should not hold any position in the
21 Anglican Church. Where proceedings are commenced it was
22 common, as my memory says, for the Bishop to appoint a
23 chaplain to the person who is being dealt with.

24
25 Q. Again, your understanding as to why the Bishop made
26 that ruling was because of your acting in conflict; is that
27 right?

28 A. I don't know. I haven't seen any documents. All
29 I know is that the Bishop made an order.

30
31 Q. What is your understanding as to why he made the
32 order?

33 A. I don't really know, sir. I don't really know. He
34 may have - may have made it because I was in fact - I have
35 in fact acted for priests charged with sexual offences.
36 I don't know.

37
38 MS SHARP: Q. I just want to ask you one more thing
39 about Stephen Gray, if I may. You regarded him as a
40 dangerous sexual predator?

41 A. Yes.

42
43 Q. You participated in a rouse as to the date of his
44 resignation to enable him to obtain employment within a
45 different diocese. That's right, isn't it?

46 A. It may have facilitated his employment. I don't say
47 it would have, but then Bishop Holland took certain action.

1
2 Q. I will come back to that. You did this
3 notwithstanding your view that he was a dangerous sexual
4 predator?
5 A. Yes, all of the facts hadn't come out at that point of
6 time because it wasn't until the brief of evidence was
7 delivered that all of the facts came out.
8
9 Q. By the time that Year Book was published, you were
10 well aware of the fact that Stephen Gray was a dangerous
11 sexual predator?
12 A. Yes.
13
14 Q. What steps are you referring to Bishop Holland taking?
15 A. My understanding is that Bishop Holland took his
16 licence to operate as a priest from him, that's my
17 understanding.
18
19 Q. Can I move on to ask you some questions about the
20 [CKC] prosecution.
21 A. Yes.
22
23 Q. Can I draw your attention, please, Mr Allen, to the
24 fact that some pseudonyms are used and could I ask you to
25 take great care in answering these questions. To remind
26 you, [CKC] is the priest for whom you acted.
27 A. Yes.
28
29 Q. And [CKA] is one of the complainants.
30 A. Yes.
31
32 Q. [CKB] is the other of the complainants.
33 A. Yes.
34
35 Q. Could I ask you in the evidence you are about to give
36 not to disclose the real names of those people. I want to
37 ask you, firstly, about Peter Mitchell. He was the
38 Diocesan Registrar as at 2000 and 2001; is that correct?
39 A. That's correct. Can I just return that piece of
40 paper, I think it's advantageous.
41
42 Q. Yes.
43 A. Yes.
44
45 Q. You acted for [CKC] in 2000 and 2001 in relation to
46 allegations that he had sexually abused [CKA] and [CKB];
47 correct?

1 A. Yes.
2
3 Q. At that time, that is during 2000 and 2001, you were
4 well aware that Peter Mitchell had a close relationship
5 with [CKC]?
6 A. Yes, Peter Mitchell worshipped I believe in [CKC]'s
7 parish that he was transferred to.
8
9 Q. You were well aware as at 2000 and 2001 that
10 Peter Mitchell had a close relationship with [CKC]? Yes or
11 no, Mr Allen?
12 A. Yes.
13
14 Q. You were aware that [CKC] was the godfather to one of
15 Peter Mitchell's children?
16 A. No, I wasn't.
17
18 Q. You were aware that Peter Mitchell was one of the
19 executors of [CKC]'s Will?
20 A. No, not particularly.
21
22 Q. Are you aware of that now?
23 A. I think I am now.
24
25 Q. You were aware, were you, that Peter Mitchell was a
26 beneficiary under [CKC]'s Will?
27 A. I did not know that.
28
29 Q. Do you know that now?
30 A. Yes, you've just told me.
31
32 Q. Did you know that before I just told you?
33 A. No.
34
35 Q. Are you sure about that?
36 A. Positive.
37
38 Q. Prior to commencing acting as a solicitor for [CKC],
39 did you know [CKC]?
40 A. Yes.
41
42 Q. What was the nature of your relationship with [CKC] at
43 that time; that is, prior to acting for him in this
44 criminal prosecution?
45 A. I would see [CKC] at a Synod and I think at the
46 Diocesan Council. I saw [CKC] socially and one of my other
47 parish Synod representatives stayed at [CKC]'s residence

1 when a Synod was on on a couple of occasions; that's my
2 memory.

3
4 Q. Is it fair to say that as at the time immediately
5 prior to acting for [CKC], you had a close relationship
6 with him?

7 A. I wouldn't put it "close". I saw him from time to
8 time.

9
10 Q. You had a friendship with him?

11 A. Yes.

12
13 Q. Were you the executor of his Will at that time?

14 A. Not to my knowledge.

15
16 Q. Have you ever been the executor of his Will?

17 A. No.

18
19 Q. You can take it from me that the evidence discloses
20 that [CKA] and [CKB] disclosed their allegations of abuse
21 to the police in February 2000.

22 A. Yes.

23
24 Q. When did you commence acting for [CKC] in relation to
25 those allegations?

26 A. After he had been charged in the town that he was then
27 residing and after he'd been interviewed by the police,
28 I do not know the date of that, but there is an ERISP
29 recording in the documents which are produced.

30
31 Q. I want to be very clear - if there was a difference in
32 time between [CKC]'s interview with the police and the time
33 he was charged, when did you first become involved in this
34 matter?

35 A. After he was charged.

36
37 Q. Are you sure about that?

38 A. Positive about that.

39
40 Q. Did you have anything to do with the matter before
41 [CKC] was charged?

42 A. No. He was interstate.

43
44 Q. Are you sure that you had nothing to do with the
45 matter before [CKC] was charged?

46 A. No, I didn't have anything to do with it.

1 Q. How did you come to be acting as [CKC]'s solicitor?
2 A. He - sorry, [CKC] rang me and asked would I act.
3
4 Q. At that time you had a number of different
5 responsibilities in the governance of the Diocese - that's
6 right, isn't it?
7 A. Yes, that would all be shown in the Year Book,
8 whatever the --
9
10 Q. At the time that [CKC] requested your assistance, did
11 you give any consideration as to whether it was appropriate
12 for you to act on his behalf in a criminal prosecution in
13 view of the various positions you held in relation to the
14 governance of the Diocese of Newcastle at that time?
15 A. Not at that time I did not. Perhaps I might at the
16 present time reconsider that.
17
18 Q. This reconsideration is quite a recent consideration;
19 is that right?
20 A. Reconsidering given the climate in 2015-16.
21
22 Q. Was it your view at the time you accepted instructions
23 from [CKC] that the Diocese's interest was best served by
24 getting him off?
25 A. No.
26
27 Q. Did you ever give any consideration at the time as to
28 whether you had any conflict in your obligations to the
29 diocese, vis-a-vis, your obligations to [CKC] as his legal
30 representative?
31 A. No.
32
33 Q. You say you gave absolutely no consideration to that
34 question at the time?
35 A. Correct.
36
37 Q. Was that something that you now regard as seriously
38 remiss on your part?
39 A. I think the climate in 2000-2001 was different from
40 the climate today, and today I think one would have to look
41 seriously at it.
42
43 Q. What changed in the climate, Mr Allen?
44 A. The awareness in the community of people in relation
45 to the sorts of offences that [CKC] was charged with.
46
47 Q. It is right that you retained Paul Rosser QC to act

1 for [CKC]?
2 A. That's correct.
3
4 Q. In what capacity did you retain Mr Rosser?
5 A. As counsel to act for [CKC].
6
7 Q. You retained him as a barrister; is that right?
8 A. That's correct.
9
10 Q. What is your understanding at all times that he was a
11 barrister?
12 A. I was aware that at one stage he was a solicitor.
13 I am aware that at one stage I think he went from the Roll
14 of Barristers to the Roll of Solicitors and had probably
15 gone back to the Roll of Barristers; I don't know.
16
17 Q. When did you become aware of that?
18 A. Probably about - shortly before the trial.
19
20 Q. You were aware that he was not in fact a barrister?
21 A. Yes.
22
23 Q. Tell me, was he robed during the trial?
24 A. No.
25
26 Q. Are you sure about that?
27 A. Positive.
28
29 Q. Was it disclosed to the court that he was not in fact
30 admitted as a barrister at that time?
31 A. I don't know what - I can't remember what was said to
32 the judge in 2001, but he certainly was not robed.
33
34 Q. Have you had conversations with Mr Rosser, or anyone
35 acting on his behalf in the last few days, about the
36 question of whether he was admitted as a barrister at that
37 time?
38 A. No.
39
40 Q. At the time you retained Mr Rosser, were you aware
41 that he was the Deputy Chancellor of the Diocese of
42 Newcastle?
43 A. Not particularly. I can't give a time, so I don't
44 know.
45
46 Q. Well, Mr Allen, you were heavily involved in the
47 governance of the Diocese at that time, weren't you?

1 A. I was involved with the administration of the Church.
2
3 Q. Surely you had a clue about who the Deputy Chancellor
4 of the Diocese was at that time?
5 A. I don't - I didn't particularly. I don't particularly
6 even now know what years Mr Rosser was the Deputy
7 Chancellor or the Chancellor.
8
9 Q. I won't ask you about years. I'll ask you as at the
10 time you retained Mr Rosser to act for you in some capacity
11 on behalf of [CKC], you were well aware that he was the
12 Deputy Chancellor of the Diocese?
13 A. Yes, he could have been.
14
15 Q. You were well aware of that, weren't you?
16 A. I don't think I was well aware because I haven't got
17 any dates in front of me.
18
19 Q. Do you have any reason to doubt you were aware of that
20 matter at the time?
21 A. Probably - no.
22
23 Q. Prior to retaining Mr Rosser, did he disclose to you
24 that he had provided Bishop Herft and Dean Graeme Lawrence
25 with advice about how to handle the disclosures that had
26 been made by [CKA] in relation to [CKC]'s alleged abuse?
27 A. No.
28
29 Q. Are you absolutely certain about that?
30 A. Yes.
31
32 Q. Would you have retained him had you known he had
33 provided certain advice to the Bishop and the Dean?
34 A. Probably not, but I didn't know.
35
36 Q. Why would you not have retained him?
37 A. Well, if he had in fact given advice in relation -
38 I think you said [CKA], to the Bishop and the Dean, I would
39 have then thought it was inappropriate.
40
41 Q. Is it your evidence that he positively did not
42 disclose that matter to you?
43 A. It was never disclosed to me.
44
45 Q. Do you find it quite odd now that he did not disclose
46 that matter to you?
47 A. No, not particularly.

1
2 Q. Really, you don't find it odd that he had not
3 disclosed that he had previously advised the Diocese about
4 handling the accusations made by [CKA]?

5 A. He certainly didn't advise me and perhaps I -
6 I certainly don't ever remember any conversation about it.
7

8 Q. We will leave that to one side, whether he had a
9 discussion with you about that. In view of his position as
10 Deputy Chancellor of the Diocese at that time, did it occur
11 to you that it might not be appropriate to retain him to
12 act on behalf of [CKC] in the criminal prosecution?

13 A. No, it didn't. He, as I understood, had a right of
14 private practice.
15

16 Q. Does it occur to you now that it might not have been a
17 great idea to retain the Deputy Chancellor of the Diocese
18 to act on behalf of [CKC] in the criminal prosecution?

19 A. As at today, yes.
20

21 Q. And why is that?

22 A. Well, everything would appear to me to then be too
23 close.
24

25 Q. But that simply didn't occur to you at the time?

26 A. No.
27

28 Q. Even with a solicitor of your experience at that time?

29 A. No.
30

31 MS SHARP: Is this a convenient time, your Honour?

32 THE CHAIR: We will take the morning adjournment.
33
34

35 SHORT ADJOURNMENT 36

37 MR TEMBY: There was a reference to a Register of Services
38 which played a role in the decision in, I think,
39 September 2001 not to proceed with the then pending
40 prosecution and your Honour requested that the Register of
41 Services be produced.
42

43 I formally produce a police exhibit envelope which
44 I am instructed contains the Register of Services. It is
45 produced to the Commission with a request that it be
46 returned in due course of time at a hearing of the
47 Commission, perhaps later in the week if that's

1 practicable, because in due course of time, possibly
2 continuity might need to be proved. It has been given by a
3 police officer to my instructing solicitor; by her to me
4 and by me to the Commission. In due course of time if that
5 process can be reversed on the record that will be
6 convenient.

7
8 THE CHAIR: Is there any problem with any party to the
9 proceedings wanting to inspect it?

10
11 MR TEMBY: I don't wish to raise any objection in that
12 respect, and there is no difficulty in the document being
13 handled because by reason of at least its antiquity, there
14 is no question that arises with respect to fingerprints or
15 anything of that sort. There is no objection to it being
16 handled but we are giving it to the Commission on the basis
17 it will be kept by the Commission until, with respect,
18 given back to us.

19
20 THE CHAIR: I understand. Thank you.

21
22 MR TEMBY: Thank you.

23
24 MS SHARP: Q. Mr Allen, could I show you a document at
25 tab 76 of the bundle. I think that the witness has been
26 shown the wrong document. I will give the Ringtail
27 reference. Mr Allen, could I direct your attention to the
28 entry in this chronology for 18 August 2000.

29 A. Yes.

30
31 Q. You will see it says a summons was laid in respect of
32 the complaint by [CKA] and [CKB] on 18 August 2000?

33 A. Yes.

34
35 MS SHARP: Can I interpolate, your Honour, those
36 assisting me do have a copy of the summons but it needs to
37 be redacted and as soon as it is, I will tender a copy of
38 that summons.

39
40 Q. It is right that the laying of the summons in this
41 matter was when [CKC] was charged?

42 A. That's what the document said, but I understood that
43 [CKC] was, in fact, charged in the other State.
44 I understood that.

45
46 Q. In relation to this complaint?

47 A. Yes.

1
2 Q. I am just asking you - is it your recollection that he
3 was charged in around August of 2000?
4 A. That's what the document says.
5
6 Q. Before the mid-morning adjournment you told me that
7 you did not have involvement in the matter until [CKC] was
8 charged. Do you adhere to that evidence?
9 A. I understood he was charged in Victoria and it's after
10 the interview or the charging in Victoria that [CKC]
11 contacted me.
12
13 Q. Are you able to indicate when it was you say [CKC] was
14 charged in Victoria?
15 A. No, I'm not.
16
17 Q. Can I show you a document at tab 60. I will ask that
18 you read that whole document before I ask you some
19 questions about it.
20 A. Can I have it? Thank you. Yes.
21
22 Q. You will see this document is dated 17 February 2000?
23 A. Yes.
24
25 Q. It is addressed to you?
26 A. Yes.
27
28 Q. It is from Peter Mitchell, the Registrar of the
29 Diocese?
30 A. Yes.
31
32 Q. It relates to [CKC]; do you see that?
33 A. Yes.
34
35 Q. You can take it from me that [CKA] and [CKB] did not
36 make their disclosures to the Police until February 2000.
37 It would appear that very soon after that, you were
38 corresponding with Peter Mitchell about that matter. Do
39 you agree?
40 A. That's what the letter - that's what the letter says,
41 yes.
42
43 Q. You have no reason to doubt that you in fact received
44 this letter at the time?
45 A. No.
46
47 Q. Because you did receive this letter at the time?

1 A. Yes.
2
3 Q. You will see in the first paragraph it is stated:
4
5 *Further to your recent enquiry....*
6
7 A. Yes.
8
9 Q. Then licence details are set out for [CKC]?
10 A. Yes.
11
12 Q. What was the "recent enquiry" that is referred to in
13 this letter?
14 A. I can't give an answer. I'm not certain of the times
15 but this letter, in relation to [CKC], was about when he
16 was licensed where.
17
18 Q. Parts of that letter are redacted, but you can take it
19 from me that under those redactions precise dates to the
20 day are given in respect of which [CKC] was licensed at
21 various parishes.
22 A. Yes.
23
24 Q. Why were you inquiring, as at 17 February 2000, about
25 the dates upon which [CKC] was licensed at various
26 parishes?
27 A. I can't give you an answer for that because I don't
28 have my file, but there may be entries in my file which has
29 been produced. I don't know.
30
31 Q. We may take it from the fact that Mr Mitchell provided
32 you with those exact dates that he had records available to
33 him at that time which permitted him to provide that advice
34 to you?
35 A. Yes.
36
37 Q. And as from 17 February 2000, you were well aware of
38 the precise dates at which [CKC] was licensed at particular
39 parishes within the Diocese of Newcastle?
40 A. After I received that letter, yes.
41
42 Q. Can I take you now to tab 65. I'm sorry, there's one
43 other matter I should put to you. It follows from the fact
44 that you were corresponding with Peter Mitchell on about
45 17 February 2000 that you had had discussions with him
46 about the allegations against [CKC] by that time?
47 A. I have no specific recollections.

1
2 Q. But you have no reason to doubt that proposition,
3 having seen that letter?
4 A. No.
5
6 Q. I suggest to you that you were corresponding with
7 Peter Mitchell well before [CKC] was charged in relation to
8 this matter?
9 A. In respect of this issue?
10
11 Q. Yes.
12 A. I don't - I don't know. I can't remember. That's a
13 long time ago.
14
15 Q. Having regard to the date of this document, if it is
16 the fact that [CKC] was not charged until August, it
17 follows inevitably, doesn't it, that you were corresponding
18 with Peter Mitchell many, many months before [CKC] was
19 charged in relation to this matter?
20 A. That could be. I don't know when [CKC] was in fact
21 interviewed by the police in the other State.
22
23 Q. In any event, can I take your attention, please,
24 Mr Allen, to this letter dated 18 April 2001.
25 A. Yes.
26
27 Q. That's a letter from your law firm?
28 A. Yes.
29
30 Q. To the Registrar, that is, Mr Peter Mitchell?
31 A. Yes.
32
33 Q. In relation to the [CKC] matter?
34 A. Yes.
35
36 Q. I can take it this is a letter from you?
37 A. Yes.
38
39 Q. You are serving a subpoena for production upon the
40 Registrar?
41 A. Yes.
42
43 Q. This was at a time when charges had been laid against
44 [CKC]?
45 A. Yes.
46
47 Q. Can I show you a copy of the subpoena that you

1 enclosed with this letter at tab 66. If it assists, the
2 pinpoint reference is ANG.0050.001.6128. Mr Allen, have a
3 look at that subpoena. You will agree, won't you, that
4 that was the subpoena you served upon Mr Allen under that
5 letter we have just reviewed?

6 A. Yes.

7

8 Q. Can I draw your attention, firstly, to paragraph 2 in
9 the schedule, could you have a look at that?

10 A. Yes.

11

12 Q. You will see that you have requested.

13

14 *Any notes, letters, correspondence or copy*
15 *in possession of the Bishop or Diocese*
16 *relating to any complaint of sexual*
17 *misconduct by any person against [CKA] and*
18 *[CKB]*

19

20 A. Yes.

21

22 Q. I have taken you to that letter that was written by
23 Peter Mitchell to you on 17 February regarding the dates
24 upon which [CKC] was licensed at various parishes within
25 the Diocese. Was it your view that that letter fell within
26 paragraph 2 of this subpoena?

27 A. Not necessarily. I don't know.

28

29 Q. You had no view about whether that letter fell within
30 the terms of the subpoena?

31 A. No. The information in relation to - I'm sorry -
32 [CKC], I would have thought was all in the yearbooks or
33 Bishop's official acts that I was provided with.

34

35 Q. But did you have any view about whether that letter
36 that Mr Mitchell sent to you dated 17 February 2000 fell
37 within paragraph 2 of this subpoena?

38 A. No, it's never crossed my mind until I'm looking at
39 the documents, and I have no recollection as to whether it
40 did.

41

42 Q. If I were to tell you or if you were to assume that
43 that letter was not produced in answer to this subpoena,
44 would that surprise you in any way?

45 A. I would have thought it should have been produced.

46

47 Q. Can I ask you, in relation to paragraph 1, why is it

1 that you were asking for the Membership Roll of the
2 Diocesan Synods for the seasons 1978 to 1984?

3 A. I cannot now give you a reason for those years.
4

5 Q. Back to paragraph 2 of the request, you have looked
6 for records relating to complaints being made against
7 [CKC]. Had you previously had any discussions with anyone
8 in the Diocese about what records might be held?

9 A. No.
10

11 Q. I withdraw that question. I have put it unfairly.
12 Paragraph 2 asks for records relating to complaints of
13 sexual misconduct made by any person against [CKA] and
14 [CKB]. Prior to issuing the subpoena, had you had
15 discussions with anyone in the diocese about whether such
16 records meeting these terms may exist within the Diocese?

17 A. No.
18

19 Q. Are you sure about that?

20 A. Relying on my memory, yes.
21

22 Q. If you can take it from me that what Peter Mitchell
23 produced in answer to this subpoena included two file notes
24 that Dean Graeme Lawrence had had of telephone
25 conversations with [CKC] in 1996 and 1999 respectively, can
26 you tell us whether you had any conversations with
27 Peter Mitchell about the existence of those documents
28 before you issued this subpoena?

29 A. No.
30

31 Q. You were aware from the time that Peter Mitchell wrote
32 to you on 17 February 2000 as to the exact dates upon which
33 [CKC] was licensed at particular parishes within the
34 Diocese?

35 A. Yes.
36

37 Q. You will recall that there was a change of position in
38 the case of the Crown regarding the dates upon which the
39 alleged offences occurred?

40 A. Yes.
41

42 Q. You will recall that it was initially alleged that an
43 offence had occurred while [CKC] was at a particular parish
44 in 1974?

45 A. Yes.
46

47 Q. And that allegation was changed to a different year?

1 A. That's correct.

2

3 Q. But that didn't occur until after the committal
4 proceedings, did it?

5 A. I think that's correct.

6

7 Q. At the committal proceedings [CKA] and [CKB] gave
8 evidence about the allegations?

9 A. I was not at the committal hearing, I'd had a motor
10 accident. I believe they did.

11

12 Q. But you were aware they gave evidence committing to
13 the offences occurring in a particular year?

14 A. Yes.

15

16 Q. And by the time of that hearing you were well aware
17 that [CKC] was not licensed at that parish at that
18 particular time?

19 A. That's correct.

20

21 Q. You were aware of that by virtue of receiving the
22 letter from Peter Mitchell on 17 February 2000?

23 A. Yes.

24

25 Q. But no steps were taken at the committal, were they,
26 to make anybody aware of the dates upon which [CKC] was
27 licensed at the relevant parishes?

28 A. I did not go to the committal because I had a motor
29 accident. Mr Rosser attended.

30

31 Q. To the best of your knowledge, no attempts were made
32 at the committal to make anyone aware of the dates upon
33 which the priest was licensed at particular parishes?

34 A. I don't think so, but, as I said, I wasn't at the
35 committal.

36

37 Q. Can I take you to a letter appearing at tab 73. You
38 will see this is a letter from yourself, Mr Allen, to the
39 DPP dated 31 July 2001?

40 A. Yes.

41

42 Q. You will see that you provide information regarding
43 the time at which [CKC] was appointed to a particular
44 parish?

45 A. Yes.

46

47 Q. You then enclose that letter from Peter Mitchell,

1 dated 17 February 2000?
2 A. That's what the letter says, yes.
3
4 Q. You also indicate that that information can be
5 obtained from the Diocese through the diocesan yearbooks
6 held at the Registry?
7 A. Yes.
8
9 Q. Can I ask you - and you may very well have a good
10 reason for this - why this information was not made known
11 until this point of time to the DPP?
12 A. I don't know.
13
14 Q. As defence counsel, of course you are under no
15 obligation to show your hand to the prosecution?
16 A. Correct.
17
18 Q. Can I ask you, Mr Allen, to have a look at tab 71.
19 You will see that's a letter from you to Mr Mitchell dated
20 3 July 2001?
21 A. Yes.
22
23 Q. You enclose a draft statement?
24 A. Yes.
25
26 Q. That's because you had asked Mr Mitchell to write a
27 reference for [CKC]?
28 A. I believe so.
29
30 Q. Could I show you that document at tab 72. Is it right
31 that you prepared this draft reference and submitted it to
32 Mr Mitchell?
33 A. Yes, I would have thought so.
34
35 Q. It stands to reason that because [CKC] was the
36 Registrar of the Diocese, he would be the natural contact
37 point for the Police or the DPP in obtaining documents
38 about [CKC]?
39
40 MR WATTS: I think Counsel Assisting said [CKC].
41
42 MS SHARP: I did, I'm sorry, I withdraw that. I'll start
43 again. I apologise for being confusing.
44
45 Q. You are aware that as Peter Mitchell was the Registrar
46 of the Diocese, he would be the natural contact point for
47 the DPP or the Police in obtaining documents about [CKC]?

1 A. He could be.
2
3 Q. Well, he would be as the Registrar, wouldn't he?
4 A. Yes.
5
6 Q. It is right that on the day the trial was to commence,
7 the Crown presented an amendment indictment in the [CKC]
8 matter?
9 A. That is my memory, yes.
10
11 Q. They changed the date of the offence from one year to
12 the next?
13 A. Yes.
14
15 Q. And it is right that [CKC] resisted that amendment?
16 A. I can't remember that. I don't know.
17
18 Q. It is right that one of the reasons why [CKC] resisted
19 that amendment was on the basis that the defence case was
20 prejudiced?
21 A. I would - yes, I think so.
22
23 Q. Tell me, during the investigation process and during
24 the prosecution, did you have any discussions with
25 Peter Mitchell about what documents would be produced by
26 the Diocese to the DPP or the Police?
27 A. No.
28
29 Q. Are you sure about that?
30 A. Positive.
31
32 Q. I want to put to you some evidence that the Commission
33 has obtained from another witness. A witness given the
34 pseudonym [COH] has given some evidence that she was the
35 person in charge of a particular parish rectory when on
36 14 August 2001 she received a message from you. She says
37 that you contacted her and explained that you represented
38 [CKC] in a proceeding where he had been accused of assault
39 and you would like to inspect the parish register?
40 A. That's so.
41
42 Q. You did do that; is that right?
43 A. Yes.
44
45 Q. It is right that you attended at her home later that
46 day?
47 A. I can't remember what day it was but I did attend at

1 the particular rectory and [COH] produced a service
2 register.
3
4 Q. That's the Register of Services; is that right?
5 A. That's correct.
6
7 Q. And that register records the times at which priests
8 presided over services at particular parishes?
9 A. Yes, and particular centres.
10
11 Q. It is right that [COH] showed you a copy of this
12 register while you were at her home?
13 A. I thought I saw the original document, not a copy.
14
15 Q. I beg your pardon, she showed you the original
16 document?
17 A. My memory is yes.
18
19 Q. You and your then wife were left alone in a room for
20 around 10 to 15 minutes to review that register?
21 A. I cannot remember whether my late wife was with me or
22 not, but I certainly looked at the register and I - my
23 memory is that [COH] was there or very close in the
24 vicinity. I can't remember how long I was there, but the
25 inquiry to look at was a specific service.
26
27 Q. How were you aware of the existence of this register?
28 A. I think most Anglican laypeople who have a role or
29 various roles in parishes would be aware of the service
30 register. There's a service register for all services,
31 funerals, marriages and everything.
32
33 Q. Certainly this would be a document that the
34 Diocesan Registry would be aware of?
35 A. I would have thought so.
36
37 Q. And certainly this would be a document that the Office
38 of the Dean of the Cathedral would be aware of?
39 A. I would have thought so.
40
41 Q. It is right that this register was produced to the
42 court when the trial proceeded later that year?
43 A. Yes.
44
45 Q. Was that produced under a subpoena?
46 A. My memory is that I issued a subpoena and - I'm
47 sorry - [COH] came to the court with the documents, the

1 register, and my memory is that she got into the witness
2 box and produced the document: that's my memory.

3
4 Q. Do you have any view about the appropriateness of a
5 solicitor being left alone with a document and then having
6 that document subsequently produced under a subpoena of the
7 court?

8 A. I had neither a biro, a pencil, a rubber or any other
9 thing and I just merely looked at the register on the
10 table.

11
12 Q. I'm sorry, do you have a view about the
13 appropriateness of a solicitor being left alone with a
14 document which is subsequently produced on a subpoena to
15 the court?

16 A. It may be that [COH] should have remained in the room
17 all the time, I don't know. I don't have a view, and
18 I didn't alter or touch the register.

19
20 Q. Can I show you a document appearing at tab 82 of the
21 tender bundle. Out of fairness, may I indicate that this
22 is not your document, but can I ask you this: you were
23 present at the trial of [CKC]?

24 A. I was.

25
26 Q. I want to ask you about the correctness, to the best
27 of your recollection, of certain matters recorded in this
28 DPP document.

29 A. Yes.

30
31 Q. It is right that the register was produced in the
32 middle of the prosecution?

33 A. I would have thought it was produced after [CKA] and
34 [CKB] had given evidence, but I'm - that's my memory,
35 ma'am.

36
37 Q. Thank you. And you say that [COH] was asked to bring
38 the register to court?

39 A. That's my memory.

40
41 Q. She gives evidence in her statement that she produced
42 it to somebody else. She doesn't name that person but she
43 didn't produce it straight to the court. What do you say
44 to that?

45 A. I say that my memory was that [COH] produced the
46 register to the court.

1 Q. Could it be possible that she provided the register to
2 Peter Mitchell?

3
4 MS GERACE: I object. Commissioner, I believe, if
5 Counsel Assisting is referring to the statement of [COH],
6 that in paragraph 11 [COH] says that she received a call
7 and went and obtained the register and drove it to the
8 court. Is this a different matter? It appears to me that
9 [COH]'s evidence concords with the evidence of this
10 witness, that she, in fact, received a call, went and
11 obtained the register and took it directly to court, where
12 she was asked to take it.

13
14 THE CHAIR: That means it gets to court, but what happens
15 then?

16
17 MS GERACE: Yes.

18
19 MR WATTS: Your Honour, I do this to assist the Commission
20 and maybe Counsel Assisting. I am aware there is a
21 statement which was produced amongst material that Mr Allen
22 was summonsed to produce this morning from [COH], dated
23 11 September 2001, in which she says, "I produced to the
24 court the blue service register." She doesn't name anyone
25 but she just refers to "the court", that she produced it.

26
27 I know my friend has that document but may not have
28 had the opportunity to read it. As I say I say this -
29 I can hand over the copy I have of the particular statement
30 if it assists on this point.

31
32 MS SHARP: I thank my friends for their interventions.

33
34 Q. Can I ask this question: is it possible that [COH],
35 at the court, provided the document to Peter Mitchell
36 before it was provided to the court?

37 A. No.

38
39 Q. How can you be so certain about that?

40 A. Relying on my memory, [COH] produced the document.
41 There was some, I think, discussion about the document and
42 the Crown then - I asked - that the document be explained
43 to them and I think that's when Mr Mitchell arrived at the
44 court after [COH] had given evidence.

45
46 Q. Shortly after this document, that is the register, was
47 produced to the court, the matter was no billed, wasn't it?

1 A. Well, yes - whether it was no billed or the Crown
2 withdrew the indictment, I'm just not certain on the
3 terminology.
4

5 Q. It is correct, isn't it, that the register assumed
6 some significance in the prosecution?

7 A. The service times I believe were critical.
8

9 Q. That is, the service times of the priest that were
10 recorded in the document were critical?

11 A. I believe so.
12

13 Q. Can I show you a copy of that register. You will have
14 heard that the original of that register has been produced
15 to the Commission and sits with the Presiding Member at
16 this stage. Could I show you a copy of that register that
17 appears at tab 2B of the supplementary bundle.
18

19 MS SHARP: Your Honour, it may be convenient if I hand to
20 Mr Allen and to your Honour and the Commissioners an
21 enlarged version of this document.
22

23 MS GERACE: Might I intervene again, Commissioner. Given
24 this may concern Mr Mitchell, who I represent, could I ask
25 for the indulgence of the Commission to provide me with a
26 larger copy so I can see it and follow the questions
27 indeed. Thank you.
28

29 MR SHARP: Your Honour, I apologise, there is only one
30 copy of the enlarged version and that is the copy I will
31 show to Mr Allen.
32

33 Q. Mr Allen, I have provided you with an unredacted copy
34 of this document. I would ask that you do not disclose the
35 particular parishes to which it relates. Could I ask that
36 you have regard to the page that I have flagged, and may
37 I indicate the pinpoint reference to my friends,
38 your Honour and the Commissioners: it is
39 NPF.0016.001.2223, if I could have that shown on the
40 screen. Could I have pinpoint reference NPF.0016.001.2223
41 up on the screen. I am told that that is the wrong
42 pinpoint reference. I am just going to have this copy
43 projected on to the screen. I just want to confirm some
44 aspects of this document with you, Mr Allen. Can I make
45 sure we're on the same page, please.

46 A. The bottom of the page says 29 June 2015.
47

1 Q. Thank you, Mr Allen. Could you then have regard to
2 the right-hand side of that document, to the second-last
3 column dated "Collections"?
4 A. Yes.
5
6 Q. I don't want you to disclose the names of the parishes
7 but you will agree in that column headed "Collections",
8 there are in fact three separate parishes identified?
9 A. Up the top there is.
10
11 Q. Yes. Is it right that the numbers produced in that
12 column for the three different parishes indicate the amount
13 of money that was collected during particular services at
14 those parishes?
15 A. I'm not certain because it designates whole sums of
16 money. One would expect there would be pounds and
17 shillings or dollars and cents.
18
19 THE CHAIR: Q. But it is clearly an endeavour to record
20 those collections, isn't it?
21 A. Yes.
22
23 Q. Whether it has the cents included is neither here nor
24 there?
25 A. Yes, sir.
26
27 Q. This is the dollars, isn't it?
28 A. Yes.
29
30 MS SHARP: Q. Mr Allen, could I ask you, please, to have
31 a look at the left-hand side of that column, at the date,
32 and have regard to 4 May.
33 A. Yes.
34
35 Q. You will agree that two further columns along is one
36 entitled "Hour"?
37 A. Entitled?
38
39 Q. "Hour".
40 A. Yes.
41
42 Q. And thus for 4 May, recordings are made - can I have
43 this enlarged so everybody can see, please - there are time
44 entries for 7am, 8am and 9.30am. Do you see that?
45 A. Yes.
46
47 Q. If you move a little further out, you will see that

1 there's a column headed "Officiant"?
2 A. Yes.
3
4 Q. You will see - you have the unredacted version,
5 Mr Allen, but everybody else is working from the redacted
6 one - the real name of [CKC] is reproduced?
7 A. Yes.
8
9 Q. Then if you follow those rows across --
10 A. Yes.
11
12 Q. -- you will agree that those entries for those times
13 correspond with the three parishes named in the
14 "Collections" --
15
16 THE CHAIR: Can we take the document further across.
17
18 MS SHARP: Q. In the column entitled "Collections"?
19 A. Yes.
20
21 Q. What this document appears to indicate is that [CKC]
22 was at particular parishes named in the "Collections"
23 column at particular times.
24 A. Yes.
25
26 Q. That is recorded or that system is replicated for the
27 remaining dates in May, if you turn over the page.
28 A. It goes backwards. Just a second. I'm sorry, it's on
29 the other - yes.
30
31 Q. It was the indication from this document saying that
32 [CKC] was the officiant at different parishes at particular
33 times that proved very important in [CKC]'s defence?
34 A. They are different centres in the one parish.
35
36 Q. Different churches in the one parish?
37 A. Yes. Yes.
38
39 Q. You are aware of allegations that this register has
40 been tampered with, aren't you?
41 A. Yes.
42
43 Q. Did you in any way tamper with this document?
44 A. No.
45
46 Q. To your knowledge, did Peter Mitchell in any way
47 tamper with this document?

1 A. Not to my knowledge because it would have remained in
2 the parish.
3
4 Q. Do you harbour any suspicions at all that somebody
5 tampered with this document?
6 A. No.
7
8 Q. I need to put to you an allegation that another
9 witness has made in this matter. Are you familiar with a
10 gentleman by the name of Tim Mawson?
11 A. Yes, he was the Diocesan Secretary for a number of
12 years.
13
14 MS SHARP: Your Honour, Mr Mawson has put on a statement
15 in this matter which appears at exhibit 29. I was
16 wondering if the witness could be shown his account at
17 paragraph 16.
18
19 THE CHAIR: That is in the statement bundle, do you mean?
20
21 MS SHARP: It came later, so it is not in the bundle. It
22 is exhibit 29, I am told.
23
24 THE CHAIR: What do you want to happen?
25
26 MS SHARP: Could Mr Allen be shown paragraph 15.
27
28 THE CHAIR: Yes.
29
30 MS SHARP: Q. I am told it is actually at tab 33A of the
31 statements volume. Mr Mawson was the Diocesan Secretary?
32 A. Yes.
33
34 Q. He worked under Peter Mitchell who was, to all intents
35 and purposes, his boss?
36 A. Yes, I think that's probably correct.
37
38 Q. From time to time would you travel in the car with
39 Peter Mitchell and Tim Mawson?
40 A. If it was - and the document doesn't fix a time. If
41 it was a time before the Synod was to assemble, a number of
42 us went around each of the Deaneries and the Synod business
43 paper was gone through by the Synod reps and the priests of
44 the Deanery.
45
46 Q. Is that a "yes", you did travel in the car with him
47 and Peter Mitchell from time to time?

1 A. Yes, and it would be in the Synod times, or at one
2 stage the registry was at Morpeth or we might have been
3 going to Morpeth.
4

5 Q. At paragraph 16 of Mr Mawson's statement he gives
6 evidence that he was seated in the back of the car while
7 Peter Mitchell was driving and you were in the front
8 passenger seat and you and Mr Mitchell, one of you was
9 saying, "Yeah, it's funny how those documents went
10 missing", and then one of you sniggered. Do you have any
11 recollection whatsoever of having a conversation like this
12 with Mr Mitchell?

13 A. No.
14

15 Q. Do you say that such a conversation did not occur or
16 you don't remember such a conversation?

17 A. I say that the conversation didn't take place.
18

19 Q. Can I take you to a document at tab 99.

20 A. Can I give you back these documents?
21

22 Q. Yes. Can I say this is not your document, Mr Allen,
23 this is a document you will see is dated 16 October 2001 to
24 [CKA], and you know who I'm referring to?

25 A. Yes.
26

27 Q. You will see the letter comes from Peter Mitchell?

28 A. I can't see that on my screen.
29

30 Q. I will have it scrolled down for you.

31 A. I'm sorry. Yes.
32

33 Q. You will see a statement is made in the third
34 paragraph --

35 A. Can it be rolled down, please?
36

37 Q. Yes.

38 A. Yes, thank you.
39

40 Q. You will see a statement is made there that:

41
42 *The Church ...*
43

44 And this is Mr Mitchell telling [CKA]:

45
46 *The Church did not in any direct way*
47 *provide records to the Reverend [CKC]'s*

1 *defence except through compulsory Court*
2 *processes.*

3
4 A. Yes.

5
6 Q. That's simply not true, is it?

7 A. It appears not.

8
9 Q. Why is that?

10 A. Because I - if my dates are right, the letter that
11 Mr Mitchell sent to me I think predates this document.

12
13 Q. And there, may I take it, you're referring to the
14 letter of 17 February 2000 where Mr Mitchell told you the
15 exact dates upon which --

16 A. I can't see the date of this letter either.

17
18 Q. I beg your pardon?

19 A. I can't see the date of --

20
21 Q. I'll have it scrolled up.

22 A. If you just tell me.

23
24 Q. In fairness to you, Mr Allen, this is dated 16 October
25 2001?

26 A. Yes.

27
28 Q. This is at a time after the prosecution of [CKC]?

29 A. Yes.

30
31 Q. All right. The statement that "The Church did not in
32 any way direct way provide records to the Reverend [CKC]'s
33 defence except through compulsory court processes" is not
34 true, is it?

35 A. It appears not to be true.

36
37 Q. Because you were provided, very early on in the piece,
38 on 17 February 2000, with exact dates upon which [CKC] was
39 licensed at particular parishes within the diocese?

40 A. Yes.

41
42 MS GERACE: I am sorry, and if I may intervene again,
43 Commissioner, the letter itself - and I'm certain
44 Counsel Assisting will explore this with Mr Mitchell - in
45 fact is responding to a suggestion that records in relation
46 to confidential conversations were provided and it is in
47 relation to a complaint. It needs to be read in the

1 context of this letter responding to concerns --

2

3 THE CHAIR: I am not sure that's correct. That's the
4 first paragraph but the document doesn't speak in those
5 terms thereafter.

6

7 MS GERACE: Commissioner, that will obviously be a matter
8 that I take on board and I don't advance that any further.
9 In relation to the word "records", I'm not certain that a
10 letter recording information should properly be considered
11 called a record.

12

13 THE CHAIR: You can talk about that much later on. Yes.

14

15 MS SHARP: Q. Could I show you a document at tab 189A.
16 Mr Allen, again, this is not your document. As you can see
17 from the front page, this is a file note prepared by
18 Michael Elliott?

19 A. Yes.

20

21 Q. And you understand him to be the current Director of
22 Professional Standards within the Diocese?

23 A. Yes.

24

25 Q. I apologise, Mr Allen, I think I've already taken you
26 to this allegation. I don't need to take this any further.
27 Can I take you please Mr Allen, to tab 121A. You will see
28 this is a letter from you to Bishop Herft?

29 A. Yes.

30

31 Q. Bishop Herft was the Bishop of the Diocese at the time
32 of [CKC]'s prosecution; is that right?

33 A. Yes.

34

35 Q. Can you tell me, at the time of the prosecution did
36 you have conversations with Bishop Herft about the
37 prosecution?

38 A. My memory is no.

39

40 Q. In any event, you will see this is dated 28 April
41 2003, some significant time after that prosecution. You
42 will see, though, that that refers to [CKC]?

43 A. Yes.

44

45 Q. Can I draw your attention, please, to the fourth
46 paragraph?

47 A. Sorry?

1
2 Q. You will see it is stated:

3
4 *The documents subpoenaed from the Dean of*
5 *Newcastle, the Diocese and the Parish, in*
6 *my view, raise other issues that should be*
7 *of concern to the Diocese. The Year Books*
8 *of the Diocese provide an exact public*
9 *record which may produce problems in*
10 *connection with the documents produced*
11 *under subpoena.*
12

13 What do you mean here, Mr Allen?

14 A. I cannot remember. My file has, I think, some
15 documents that were produced by the then Dean of Newcastle.
16

17 Q. You had a concern that was serious enough that it
18 caused you to write to the Bishop of the Diocese; correct?

19 A. Yes.
20

21 Q. And that was a concern in relation to the prosecution
22 of [CKC]?

23 A. It arose out of, I think, relying on my memory, the
24 documents that were produced in relation to the [CKC]
25 matter.
26

27 Q. Why did you have a concern about the documents that
28 were produced in the [CKC] matter?

29 A. It was certain issues raised in those documents that
30 came under subpoena.
31

32 Q. What were they?

33 A. They showed that the then --
34

35 Q. Could I interrupt you, please. Do not disclose the
36 parishes or the name of the priest.

37 A. It showed that the - it showed in my - as my memory
38 is, the Dean had been involved in certain matters and had
39 reduced certain matters to writing which ended up coming
40 out in subpoenas.
41

42 Q. And the Dean, of course, was Graeme Lawrence?

43 A. That's so.
44

45 Q. Can I just take you to the second page of that
46 document. You say:
47

1 *Before I send my large file to the archives*
2 *perhaps yourself, Bruce Hockman, Tim Mawson*
3 *and the writer need to talk through what*
4 *I believe the perceived problems may be for*
5 *the Diocese in the future.*
6

7 You had a matter of some concern that you wanted to raise
8 with the Bishop; is that correct?

9 A. Yes.

10
11 Q. I will ask you again - you said:

12
13 *The Year Books of the Diocese provide an*
14 *exact public record which may produce*
15 *problems in connection with the documents*
16 *produced under subpoena.*
17

18 What are the problems you're referring to here? This has
19 nothing to do with file notes made by Graeme Lawrence?

20 A. I cannot remember the nature of this particular
21 letter.
22

23 Q. Did you have any concerns that any documents at all
24 used in the [CKC] prosecution had been altered in any way?

25 A. No.
26

27 Q. Were you aware, during the course of acting for [CKC],
28 that Dean Graeme Lawrence's office had been contacted by
29 either the police or the DPP about records relating to the
30 times at which [CKC] served in the parish?

31 A. No.
32

33 Q. That was never made aware to you by Mr Mitchell?

34 A. No.
35

36 Q. Did you ever have any conversations with
37 Bishop Richard Appleby about whether [CKA] had disclosed
38 his allegations of abuse at the hands of [CKC] to
39 Bishop Appleby?

40 A. To the best of my memory, no.
41

42 Q. You are aware that there is a current police
43 investigation in relation to [CKC]?

44 A. I am now.
45

46 Q. You were aware prior to today, or last Friday, that
47 there was a current investigation into [CKC]?

1 A. It was in the course of this Commission sitting last
2 week, I think.

3
4 Q. I suggest to you that as at 2014, you were well aware
5 that there was a current police investigation into [CKC]?

6 A. No.

7
8 Q. Do you absolutely deny that?

9 A. No. I don't think there was and I didn't know about
10 it. It could well be that given the nature of the
11 proceedings, that they may be revisited, I don't know.
12 I didn't know.

13
14 Q. Have you at any time had conversations with
15 Bishop Appleby about the current police investigation into
16 [CKC]?

17 A. At some stage - and I cannot remember when -
18 Bishop Appleby and I spoke on the telephone and he
19 indicated to me that the police were or had interviewed him
20 in relation to one aspect of [CKC]'s matter.

21
22 Q. May we take it that you, in fact, were aware that the
23 police were investigating [CKC]?

24 A. I suppose I was then, but I've never turned my mind to
25 it until now.

26
27 Q. Have you ever suggested to Bishop Appleby evidence he
28 may give to the police investigating allegations into
29 [CKC]?

30 A. No.

31
32 THE CHAIR: Q. Have you ever described Bishop Appleby as
33 a good operator?

34 A. Yes, I think I did. He was a very efficient and,
35 I think, analytical bishop.

36
37 Q. Did you so describe him to Mr Cleary?

38 A. Yes, I would have thought I did, or words to that
39 effect, sir.

40
41 Q. And in the context of being careful as to what he
42 recorded in Diocesan files, is that what you were talking
43 about at the time?

44 A. Could you just repeat that, sir?

45
46 Q. What didn't you understand?

47 A. You asked me about what Mr Cleary, I think --

1
2 Q. No, I am asking you what you meant when you told
3 Mr Cleary that Bishop Appleby was a good operator?

4 A. I meant that he was an efficient bishop and that he,
5 in my experience, dealt with issues in relation to the
6 Church fairly efficiently.

7
8 Q. Did you mean to infer that Bishop Appleby was very
9 careful in what he recorded in Diocesan files in relation
10 to sexual abuse matters?

11 A. No.

12
13 Q. You know Mr Allen [sic] understood you to be saying
14 that, don't you?

15 A. I beg your pardon?

16
17 Q. I am sorry, you know that Mr Cleary understood you to
18 be saying that, don't you?

19 A. They are Mr Cleary's words, as recorded, I understand.

20
21 Q. Yes. In this conversation you did describe the Bishop
22 as a good operator?

23 A. I believe so.

24
25 Q. Yes. You understand how, in the context of that
26 conversation, Mr Cleary interpreted what you were saying,
27 don't you?

28 A. They are Mr Cleary's words in respect of that memo.

29
30 Q. You just meant to say that he was efficient, did you,
31 the Bishop was efficient?

32 A. No, I think the word "operator" was used, sir.

33
34 THE CHAIR: All right. I think we will take lunch.

35
36 MS SHARP: If it please your Honour.

37
38 **LUNCHEON ADJOURNMENT**

39
40 **UPON RESUMPTION**

41
42 MS SHARP: Your Honour and Commissioners, can I deal with
43 a few housekeeping matters regarding some further tenders.

44
45 First of all, I have now had redacted the summons in
46 relation to the [CKC] matters. Could I tender, firstly,
47 a summons dated 18 August 2000 in respect of [CKB] and the

1 complaints against [CKC].

2

3 THE CHAIR: We will make that exhibit 42-035.

4

5 **EXHIBIT #42-035 SUMMONS DATED 18/08/2000 IN RESPECT OF**
6 **[CKB] AND COMPLAINTS AGAINST [CKC]**

7

8 THE CHAIR: Yes.

9

10 MS SHARP: Could I next tender a summons dated 18 August
11 2000 issued as against [CKC] in respect of the complaint
12 made by [CKA].

13

14 THE CHAIR: That will be exhibit 42-036

15

16 **EXHIBIT #42-036 SUMMONS DATED 18/08/2000 ISSUED AGAINST**
17 **[CKC] IN RESPECT OF COMPLAINT MADE BY [CKA]**

18

19 MS SHARP: Lastly, can I tender a copy of an extract of
20 the Newcastle Diocese yearbook for 1990 that refers to the
21 resignation date of Stephen Gray.

22

23 THE CHAIR: That will be exhibit 42-037

24

25 **EXHIBIT #42-037 COPY OF EXTRACT OF NEWCASTLE DIOCESE**
26 **YEARBOOK FOR 1990 REFERRING TO RESIGNATION DATE OF**
27 **STEPHEN GRAY**

28

29 MS SHARP: Q. Mr Allen, could I show you the document
30 appearing at tab 400. You will see that this is
31 a file note prepared by - you can take it from me -
32 John Cleary of a meeting occurring on 26 March 2015 of him,
33 you and Bishop Thompson. I want to ask you some questions
34 about the accuracy of this file note. Could I draw your
35 attention to an entry on that first point that says:

36

37 *Points raised by Mr Allen are as follows:*

38

39 Could I take your attention to point 5) further down on
40 that page. If I could enlarge point 5) a little further,
41 you will see what Mr Cleary there records is you saying
42 that:

43

44 *... the biggest concern in the Newcastle*
45 *Diocese at the time was Bishop Roger Herft.*
46 *He indicated that Herft will be in trouble.*
47 *This was mainly because of Herft's handling*

1 *of the Brown envelopes through Herft's*
2 *brown envelope advisory/review committee.*
3 *[Mr Allen] was also a member of this*
4 *committee.*

5
6 Is this what you said to Mr Cleary at that meeting?

7 A. It's substantially, I believe, yes.
8

9 THE CHAIR: Q. Just so we understand, the
10 "Brown envelopes" were what?

11 A. There were a number of brown envelopes that I think
12 were held by Mr Mitchell and those envelopes contained
13 notes or information as to persons or items that had been
14 brought to the attention of the Diocese. Those --
15

16 Q. That is a very oblique way of talking about it. No
17 doubt many things are brought to the attention of the
18 Diocese. What were the matters in the brown envelopes?

19 A. They were matters that were of concern to the Diocese
20 and they were looked at by --
21

22 Q. Tell me, what sort of matters? Someone --

23 A. Well, by way of example, they may be improper conduct,
24 they may be criminal offences, they may be stealing, they
25 may be arguments.
26

27 Q. This is misconduct by priests, is that what it amounts
28 to?

29 A. By priests and I think there may have been laypeople
30 involved with it, I'm not sure, because we weren't provided
31 with any names or any parish concerned.
32

33 Q. What do you mean "we weren't"; who's "we"?

34 A. Well, there was normally the Registrar, the Bishop,
35 Mr Caddies, Mr Helman, myself and the Dean, the then Dean,
36 Graeme Lawrence, and those - the contents of those
37 envelopes was disclosed but not any names or parishes
38 concerned.
39

40 Q. I am sorry, all of these people you have just named,
41 they were told about what's in the brown envelope, were
42 they?

43 A. Yes.
44

45 Q. Why was it that those people were told?

46 A. I don't know that. Those people were called - I can't
47 remember whether it was by the Bishop or by Mr Mitchell,

1 sir.
2
3 Q. "Called"? What do you mean "called"?
4 A. Called to the meetings.
5
6 Q. You were brought to meetings when the brown paper
7 envelopes were discussed, is that the idea?
8 A. Yes.
9
10 Q. These were meetings, what, to advise the Bishop,
11 were they?
12 A. Advise the Bishop in relation to the issues that were
13 disclosed to us in the brown envelopes.
14
15 Q. And what should be done about the issues, was that
16 what --
17 A. Yes, it follows, sir.
18
19 Q. Which Bishop are we talking about?
20 A. Bishop Herft.
21
22 Q. Bishop Herft?
23 A. Yes.
24
25 Q. Was it under Bishop Herft's management that the
26 brown paper envelopes first started to be created?
27 A. I think so, sir.
28
29 Q. I take it the Diocese holds other files apart from
30 brown paper envelopes; is that right?
31 A. I would expect so, sir.
32
33 Q. Do I understand the brown paper envelopes were created
34 as a separate, as it were, more secret filing system?
35 A. Yes.
36
37 Q. Is that right?
38 A. Yes.
39
40 Q. Just in general, what would be in the envelope?
41 A. The group were told of the facts contained in the
42 envelope but not the names of anybody or the parish or
43 entity concerned.
44
45 Q. You were told that information and what were you then
46 asked to do; advise in relation to it?
47 A. To express opinions or advise or collectively discuss

1 what should happen.

2

3 Q. When we say "what should happen", if you had
4 an allegation that a priest had sexually assaulted a child,
5 I take it that might be in the envelope; would that be
6 right?

7 A. It could be. I don't know - I don't remember and
8 don't know. I don't know what was in every envelope.

9

10 Q. I am not asking about every one, I am just asking
11 about any one.

12 A. Yes.

13

14 Q. So an allegation that a priest had sexually assaulted
15 a child could be recorded in the brown envelope; is that
16 right?

17 A. There would be information in the brown envelope about
18 it.

19

20 Q. And that you would advise the Bishop that that should
21 go to the police?

22 A. I think, from memory, certainly on one occasion but
23 I can't remember the details, that that was the advice that
24 the matter should be taken --

25

26 Q. Did you write down the name of the person who was said
27 to have been complained about on that one occasion?

28 A. I don't think I can remember the person's name, sir.

29

30 Q. You say there's one occasion where you remember there
31 was an allegation of sexual assault of a child by a priest
32 recorded in a brown paper envelope; is that right?

33 A. Yes.

34

35 Q. How many brown paper envelopes did you see in your
36 time?

37 A. My estimate would be 20-plus.

38

39 Q. And you say there was only one that had an allegation
40 of sexual assault of a child?

41 A. I don't know, sir. I'm relying on my memory.

42

43 Q. That's what I'm asking you for. I mean, it would
44 surprise me, having regard to what we have heard already,
45 there is only one.

46 A. Yes, but I can't give specific figures because it's
47 many, many years ago.

1
2 Q. You have been asked about the brown paper envelopes by
3 people from the Diocese previously, haven't you?

4 A. Mr Cleary and I, I think, had discussions about the
5 brown envelopes.
6

7 Q. And you have had correspondence with Bishop Stuart,
8 I think it is, about them too, haven't you?

9 A. I don't remember that, sir.
10

11 Q. I think there has been a concern that information in
12 the brown paper envelopes may not have all been provided to
13 the Royal Commission. You are aware of that concern,
14 aren't you?

15 A. I don't know whether it has or they all have or
16 haven't been provided, I have no knowledge.
17

18 MS SHARP: Q. It is recorded at paragraph 5) that you
19 indicated that Bishop Herft will be in trouble; is that
20 what you said?

21 A. I could have said that and I could have said it in
22 a different manner. I acknowledge that's what Mr Cleary
23 has recorded.
24

25 Q. Obviously, this is what Mr Cleary has recorded. Did
26 you convey to him that it was your view that Bishop Herft
27 was going to be in trouble about this?

28 A. I expressed a concern that Bishop Herft would be in
29 trouble.
30

31 Q. And, we may take it, it was your opinion at that time
32 that Bishop Herft may well be in trouble about these brown
33 envelopes?

34 A. Yes.
35

36 Q. Why was that?

37 A. I don't know what happened to the brown envelopes.
38 I don't know what happened when the term of Bishop Herft
39 finished. I don't know anything about them.
40

41 Q. But you held the opinion, at the time you had this
42 conversation with Mr Cleary, that Bishop Herft may be in
43 trouble about those brown envelopes. Why was that?

44 A. There were probably - when I'm relying on my
45 memory - matters of concern in those envelopes that would
46 affect the Diocese or the Bishop.
47

1 Q. Did you hold the opinion that Bishop Herft had not
2 dealt with the matters in these brown envelopes
3 appropriately?

4 A. I don't think that's a matter that I would know
5 whether he did or he didn't.
6

7 Q. Why did you think he would be in trouble about this?

8 A. Well, I didn't know whether the brown envelopes had,
9 in fact, been disclosed.
10

11 Q. Listen --

12
13 THE CHAIR: Q. Disclosed to whom, Mr Allen?

14 A. To the Commission, sir.
15

16 Q. To the Commission. Bishop Herft had moved on,
17 hadn't he, by the time we get to March 2015?

18 A. Yes, sir.
19

20 Q. So you are not talking about Bishop Herft then, are
21 you, in terms of disclosure to the Commission?

22 A. Well, it's probably then the former Bishop,
23 Bishop Farran. He succeeded, I think, Bishop Herft after
24 an interregnum.
25

26 Q. You see, it is recorded that you said the problems
27 were Bishop Herft's handling of the brown paper envelopes.

28 A. Yes.
29

30 Q. What did you have in mind? What was the problem with
31 his handling of the envelopes?

32 A. The issues didn't seem to go anywhere or anything
33 happen much.
34

35 MS SHARP: Q. Can I take you --

36
37 THE CHAIR: Just a minute.
38

39 Q. In February of last year, you had a conversation with
40 Bishop Thompson about documents, didn't you? You had it in
41 Adelaide?

42 A. Yes, I had a general - there were general words with
43 Bishop Thompson walking across the lawn, the venue of
44 General Synod.
45

46 Q. He understood you to say that you had records or may
47 have records and notes of your assistance to various

1 bishops that would be of great assistance at the
2 Royal Commission?
3 A. I don't have any notes.
4
5 Q. But that's what he understood you to say, wasn't it?
6 A. I don't know what he understood me to say.
7
8 Q. He wrote you a letter in which he told you - look at
9 document 397. You remember this document, don't you?
10 A. Yes, I do remember that letter, Commissioner.
11
12 Q.
13 *As one of the few continuing serving*
14 *members of the Diocese from that period you*
15 *are in a good position to assist me ... You*
16 *outlined to me a small number of church*
17 *officials who would meet to advise the*
18 *Bishop on managing misconduct in the*
19 *Diocese.*
20
21 And that is the group you have just told us about?
22 A. That is so.
23
24 Q. And that misconduct, of course, includes the sexual
25 offending, doesn't it?
26 A. Yes.
27
28 Q.
29 *You referred to these as the sealed brown*
30 *envelopes that were held in the Bishop's*
31 *office.*
32
33 Do you see that?
34 A. Yes.
35
36 Q. And the Bishop then says:
37
38 *I understand from our conversation that you*
39 *may have records and notes of your*
40 *assistance to various bishops that would be*
41 *of great assistance .*
42
43 Did you say that to the Bishop?
44 A. The only notes I had --
45
46 Q. No, did you say that to the Bishop?
47 A. I don't believe I expressed it in that way.

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Q. What did you say?

A. I think that I would have said that there are - I have knowledge of some things, but I don't think I used the word "notes" and, in fact, I don't have any notes apart from the file in respect, sir, of [CKC].

Q. The Bishop records you as going on to say:

*You had said to me at the recent
General Synod in June 2014 in Adelaide that
you had more files on matters of our
Diocese which were not in Diocesan files
and matters of which I am not aware.*

Did you tell the Bishop that?

A. I don't - I don't - I don't - I didn't say that.
That's my --

Q. Has the Bishop made this up?

A. I don't know whether the Bishop made it up, but I certainly had no files apart from the file that I have produced in respect of the criminal matter.

Q. He says that you then advised that:

*... all relevant professional standards
files that you held concerning our Diocese
has been conveyed to the Diocesan office.*

So I gather from that that you told him that you had, at one stage, held professional standards files in relation to these matters; is that right?

A. No, I've never - I don't think I have ever held a professional standards --

Q. No, that is what he says you told him?

A. I know what he says but I have never held a professional standards file and I have never been on the committee.

Q. No, but the Bishop says that is what you told him?

A. I don't agree that the Bishop's translation or the Bishop's words in the letter are reflective of what was said. The Bishop talks about "files." I don't have any files.

1 Q. The Bishop then goes on to say that he had been
2 advised from his office that you had met and passed on to
3 Bishop Peter, that's Peter Stuart, I think.

4
5 *... and Mr John Cleary verbal anecdotal*
6 *material they and the Professional*
7 *Standards Office ...*
8

9 Is that correct? Did you meet with Bishop Peter and
10 John Cleary to pass on verbal anecdotal material?

11 A. I spoke - my memory is that I spoke to Bishop Peter,
12 I can't tell you when, and I can't remember whether
13 Mr Cleary was present.
14

15 Q. At least he has got that part of it right, has he, in
16 the letter?

17 A. Yes.
18

19 Q. Then he says:
20

21 *... they and the Professional Standards*
22 *Office have not received any documents or*
23 *files from you.*
24

25 Is that correct, you never gave them anything?

26 A. No, the only file I had was the criminal matter.
27

28 Q. And then he asks you:
29

30 *Would you kindly assist me in making*
31 *available to the Director of Professional*
32 *Standards your records of ministry*
33 *misconduct in order that we may prepare for*
34 *the Royal Commission?*
35

36 That is what he requests of you, isn't it?

37 A. Yes.
38

39 Q. Did you respond to that?

40 A. I can't remember whether I responded in writing or
41 orally, but I didn't have any documents in relation to
42 Professional Standards matters.
43

44 MS SHARP: Q. Can I return you to the document at
45 tab 400, please. I would like to show you a different part
46 of that document. Again, we are looking at the file note
47 that Mr Cleary made of a meeting with you.

1 A. Can we make it a little larger? It is very small.

2

3 Q. Yes. If we can go to the second page of that
4 document, may I draw your attention to point 12). You see
5 that Mr Cleary records you as advising that
6 Bishop Holland's standard approach was the "do nothing
7 approach"; did you say that to Mr Cleary?

8 A. That may have been said, or words like it, because
9 Bishop Holland, in my experience, controlled all those
10 issues himself.

11

12 Q. Your opinion was that Bishop Holland took
13 a "do nothing approach", was it?

14 A. I don't personally know what Bishop Holland did, but
15 he handled everything. There was --

16

17 THE CHAIR: Q. No, no, Mr Allen --

18 A. There was nothing --

19

20 Q. Mr Allen, counsel's question was your understanding.
21 Do you believe he did nothing?

22 A. Yes, I think that's probably a reasonable statement.

23

24 MS SHARP: Q. Why did you hold the opinion that
25 Bishop Holland's standard approach was the "do nothing
26 approach"?

27 A. That was probably a reflection of the times in that
28 Bishop Holland dealt with the matters, any matters,
29 personally, himself, without any publication or discussion.

30

31 Q. This doesn't suggest that Bishop Holland dealt with
32 things himself; this suggests Bishop Holland did nothing.
33 That was your opinion, wasn't it?

34 A. Yes.

35

36 Q. Why was that your opinion?

37 A. There had been - and I'm relying on my
38 memory - a couple of instances in which nothing happened.

39

40 Q. Were those instances of allegations of child sexual
41 abuse?

42 A. I think one could have been but I need to look.

43

44 Q. You are looking at the pseudonyms?

45 A. Yes, please. It comes from a person named in the
46 summons that was issued, who is a priest, was a priest who
47 is now deceased. I don't know whether I can name him.

1
2 Q. Could you write his name down on a piece of paper,
3 please.
4 A. Can I have a biro and paper, please?
5
6 Q. You have written on this piece of paper Father James
7 Brown?
8 A. Yes.
9
10 Q. What was the allegation there?
11 A. When he was the Associate Priest in - can I name the
12 parish?
13
14 Q. Pardon me for one moment. I would prefer you didn't
15 name the parish at this stage. It was a parish within the
16 Diocese?
17 A. Yes.
18
19 Q. All right. What was the allegation?
20 A. On occasions that particular person had young boys, as
21 I understand it, stay with him and worship with him on
22 Sunday in that particular parish.
23
24 Q. There must have been something more to it.
25 A. It raised my suspicion as to conduct where the priest
26 had a young person at his house over a weekend.
27
28 Q. What allegations were made? Please don't name the
29 person staying. You have named James Brown, but what
30 allegations were made as to James Brown's conduct?
31 A. Relying again on my memory, was that he had a liking
32 or was inclined to young boys.
33
34 Q. Do you mean that he was sexually attracted to young
35 boys?
36 A. Yes.
37
38 Q. Was the allegation made that he did something with
39 these young boys?
40 A. I don't know.
41
42 Q. What did you understand Bishop Holland to know and not
43 do anything about?
44 A. That was like - that's my - that has been recorded as
45 my general observation, not specific.
46
47 Q. This isn't the only time you have reported that

1 Bishop Holland had a "do nothing approach"; this is
2 obviously your opinion. I want to know what this opinion
3 is based upon?

4 A. There was not any - these issues were not raised even
5 to, as I understand it, the Diocesan Council or anybody
6 else within the Diocese. I don't know.

7
8 Q. But to your knowledge, Bishop Holland was aware of
9 this matter with Father Brown, was he?

10 A. I think he probably was, yes.

11
12 Q. Is that right or wrong?

13 A. I think he was.

14
15 Q. Is it right that, to your knowledge, Bishop Holland
16 was aware of an allegation of sexual impropriety on
17 Father Brown's part towards a child?

18 A. I think that's correct.

19
20 Q. And it was your view that he did nothing in relation
21 to that matter?

22 A. Father Brown moved to another position outside the
23 Diocese.

24
25 Q. When was that?

26 A. I can't give you an exact date. He was at
27 a particular parish, then moved to another parish and then
28 left the Diocese.

29
30 Q. Let's move now to what Mr Cleary records at point 13)
31 on that page in relation to what you apparently said in
32 relation to Bishop Herft which was this was a culture of:

33
34 (a) *Not reporting child sexual abuse*
35 *matters to the police*

36
37 (b) *Claims exposure risk was the only*
38 *concern*

39
40 (c) *Disciplining the Priest was "never on*
41 *the radar in discussions"*

42
43 (d) *If it was on the radar, Herft would*
44 *say that "it was my domain to discipline*
45 *clergy and not theirs"*

46
47 (e) *... Herft only ever reported one matter*

1 to the police. That being the matter of
2 Peter Mitchell defrauding the Diocese.

3
4 Is this what you told Mr Cleary that day?

5 A. This was the discussion about the brown envelopes --

6
7 THE CHAIR: Q. No, no, please --

8 A. -- and those weren't --

9
10 Q. Did you tell Mr Cleary these things on that day?

11 A. I believe that words similar to that or those words
12 would have been used, yes.

13
14 MS SHARP: Q. And words similar to those were used
15 because that was your opinion at the time you spoke with
16 Mr Cleary; correct?

17 A. Mr Cleary spoke with me.

18
19 Q. Mr Allen --

20 A. Yes.

21
22 Q. -- that was your opinion, was it not?

23
24 THE CHAIR: Now tell me (a):

25
26 *Not reporting child sexual abuse matters to*
27 *the police*

28
29 For you to say that, you must have known that he hadn't
30 reported matters to the police; correct?

31 A. At the time this conversation took place there was the
32 matter of --

33
34 Q. No, no, no, please. To say that, you must have known
35 there were matters he had not reported to the police;
36 correct?

37 A. Yes.

38
39 Q. And presumably those matters had come to your
40 knowledge, through your work as one of the members of the
41 Advisory Committee; is that right?

42 A. No. Well, I don't think so. CK - I'm sorry - I don't
43 think [CKC] was ever reported to the --

44
45 Q. Maybe [CKC] wasn't, but you are recorded as advising
46 that there was a "culture of not reporting". Now, that
47 means for there to be a culture of not reporting there has

1 got to be multiple occasions and I put the question to you:
2 I assume that you became aware of these matters through
3 your work on the Advisory Committee to the Bishop; is that
4 not correct?

5 A. Yes.

6

7 Q. And you didn't report them to the police either,
8 did you?

9 A. I didn't have the envelopes or access to the
10 envelopes.

11

12 Q. But you knew about the allegations?

13 A. I didn't know a name. I'm sorry --

14

15 MS SHARP: Q. And your evidence is, I take it, that
16 no-one else who was responsible for viewing these brown
17 envelopes and their contents reported the matters to the
18 police either?

19 A. I don't know but I don't think so.

20

21 THE CHAIR: Q. When you had these discussions about
22 these brown envelopes, do I take it you weren't given the
23 name of the alleged abusing priest?

24 A. Correct.

25

26 Q. You weren't given the name of the victim?

27 A. No.

28

29 Q. You weren't given the parish?

30 A. No.

31

32 Q. What were you given?

33 A. The general facts in relation to an issue.

34

35 Q. What, Priest X is alleged to have abused someone?

36 A. I don't think any - no names were ever mentioned.

37

38 Q. But is that what you were given, something like,
39 Priest X is alleged to have abused someone, somewhere, in
40 the Diocese?

41 A. Yes, well, call it - yes, call it - yes, you could say
42 that, sir, Priest X in Parish Y.

43

44 Q. What were you asked to advise about then?

45 A. The facts of what had happened.

46

47 Q. What do you mean by that?

1 A. Well, the group were told the facts or what was in the
2 brown envelope about the issue.
3
4 Q. Well, give me some understanding of what that means.
5 A. On one occasion there was a young man who'd been,
6 I think, physically assaulted at one of the children's
7 homes and that matter was - needed to be dealt with.
8 I don't know whether it was reported to the police but, as
9 I understand it, certain compensation was paid by the
10 Diocese in relation to that man arising out of this offence
11 that had happened, but it was, in my view, my memory,
12 a physical assault on the child in the home, the school.
13
14 Q. What advice were you asked to give?
15 A. Relying on my memory, what should be done or what
16 should we do, that sort of words.
17
18 Q. If some child was physically assaulted, you were asked
19 what the Diocese should do?
20 A. Yes.
21
22 Q. Isn't it pretty obvious you'd go to the police?
23 A. It probably is, but one can't say unless you know the
24 details. We didn't know - I didn't know and I don't think
25 any other committee member knew the name or which - there
26 was a boys - now, not home, sir, orphanage/hostel somewhere
27 and I didn't know where it was and I don't think anybody
28 else in the committee did.
29
30 Q. This doesn't sound like a very effective advice
31 mechanism, does it?
32 A. That is what happened, in my memory.
33
34 Q. You were prepared to participate in this over a number
35 of years, were you?
36 A. It was an ad hoc thing that the meetings were called
37 and I don't know whether they were called by the then
38 registrar or the Bishop, I really don't know.
39
40 Q. But you were prepared to participate in this?
41 A. I attended not all of the meetings but some of the
42 meetings.
43
44 Q. It is a bit like boxing in the dark, isn't it?
45 A. I haven't tried that, sir, no; it probably is.
46
47 Q. Yes. How many times, on how many occasions were there

1 allegations of sexual abuse that came before this ad hoc
2 committee?
3 A. I don't know, I can't remember, and I can't put it any
4 higher than that, sir.
5
6 Q. I take it --
7 A. This is a lot of years back.
8
9 Q. I take it multiple occasions, would that be right?
10 A. It probably was correct, sir, but I don't have any
11 numbers or any recollection; this is a long time back.
12
13 Q. Did you ever tell the Bishop, in relation to these
14 allegations of sexual impropriety, that the only proper
15 course was to go to the police?
16 A. I don't think I did, sir, but I don't think anybody
17 did.
18
19 Q. Do you think you should have?
20 A. Hindsight, yes.
21
22 MS SHARP: Q. Were you aware during your tenure on this
23 brown envelope committee that it was a criminal offence if
24 people had reasonable grounds to suspect child abuse and
25 did not report it to the police?
26 A. We were all aware of it. There were three lawyers.
27
28 Q. Yes. Is it right that the Diocese had received advice
29 drawing everybody's attention to section 316 of the
30 Crimes Act?
31 A. I don't know.
32
33 Q. Who was privy to the details of who the alleged
34 priests were and their alleged parishes?
35 A. I understand the Registrar and the Bishop.
36
37 Q. Is it right that the contents of these envelopes was
38 reviewed by members of that committee from time to time?
39 A. The meetings, my memory says, were on an ad hoc basis
40 over a period of time but I can't define the time.
41
42 Q. But is it right that the contents of those envelopes
43 was reviewed by the committee at its ad hoc meetings?
44 A. Yes.
45
46 Q. Can I draw your attention please to point 16) on that
47 page. Mr Cleary there records that you advised him that

1 Graeme Lawrence was a great confidant for "priests in
2 trouble in the Diocese". Is that what you told Mr Cleary
3 at that meeting?
4 A. That's what's recorded. I don't particularly remember
5 those words, but the situation was that many people, in my
6 view, went to Graeme Lawrence.
7
8 THE CHAIR: Q. Mr Allen, you have told me now on
9 a number of occasions that you don't have any records and,
10 as a consequence, you don't have any clear recollection of
11 a number of matters; correct?
12 A. Yes.
13
14 Q. Mr Cleary records you at point 21) of advising him
15 that the best approach for the Commission is to indicate:
16
17 *... "you have no files or notes" and that*
18 *you "can only rely on your memory". In*
19 *KA's view, this will prevent*
20 *cross-examination by lawyers.*
21
22 Were you following that advice when you answered my
23 questions?
24 A. May I just read for a second? If there were no file
25 notes --
26
27 Q. No, please, answer my question.
28 A. Those are Mr Cleary's words; I'm not in a position to
29 dispute them, et cetera.
30
31 Q. Are you following your own advice when you answer my
32 questions?
33 A. How do you mean, sir?
34
35 Q. Mmm?
36 A. Follow my own advice?
37
38 Q. Mmm.
39 A. How - I am just misunderstanding you, sir.
40
41 Q. Mr Cleary records you as saying:
42
43 *... the best approach at the Royal*
44 *Commission is to indicate that you "have no*
45 *files or notes" and that you "can only rely*
46 *on your memory" ... this will prevent*
47 *cross-examination by lawyers.*

1
2 Are you following that advice when you answer my questions?
3 A. I'm answering your questions truthfully, sir, to the
4 best of my memory.

5
6 Q. But could you answer my question: are you following
7 your own advice?

8 A. I suppose I am, yes.
9

10 MS SHARP: Q. Can I take your attention, please,
11 Mr Allen, to the document appearing at tab 393. Can you
12 see that this document purports to be a file note of
13 a meeting between you, Bishop Thompson and John Cleary on
14 18 February 2015?

15 A. Yes.
16

17 Q. You will agree that you did attend a meeting with
18 those gentlemen on about that day?

19 A. Yes.
20

21 Q. That meeting was held at Bishop Thompson's office?

22 A. Yes.
23

24 Q. All right. I want to take you to some of what is
25 recorded here. On that first page, it says:

26
27 *The following points were raised by*
28 *Mr Allen at the meeting:*
29

30 Could I take your attention to the fourth dot point on that
31 page.
32

33 THE CHAIR: Let's go to the first one first.
34

35 MS SHARP: Q. Is that what you told Mr Cleary that day?

36 A. In respect of dot point (a), yes.
37

38 THE CHAIR: Q. I am sorry, are you looking at the first
39 dot point? Yes.

40 A. I didn't know whether Bishop Thompson or Mr Cleary
41 knew the records of the Diocese were held at the
42 university.
43

44 Q. No, but what about the content?

45 A. I'm sorry?
46

47 Q. You are recorded as indicating concern that there was

1 information on file at the university relating to matters,
2 but indicated there were probably others as well.

3
4 *I took this to mean that there are details*
5 *of other child sexual abuse matters on*
6 *these files as well.*
7

8 A. There could have been anything in the files that went
9 to the university because those files went back a long
10 time. One would presume if there were sexual offences,
11 they would be in those files.
12

13 Q. Did you believe that there was information held at the
14 university relating to St John's College and its history of
15 child sexual abuse?

16 A. Yes, I thought there was.
17

18 Q. Why did you think that? Had you seen them?

19 A. No, I haven't seen them, sir.
20

21 Q. Why did you think that?

22 A. There were always suggestions of impropriety at
23 various stages about St John's College.
24

25 MS SHARP: Q. That is Morpeth College?

26 A. Yes.
27

28 Q. You were aware of that because of your involvement in
29 the governance of the Diocese, I take it?

30 A. I think I might have been more aware of it by what was
31 said around the traps and maybe some within the governance;
32 I can't remember.
33

34 Q. So you, as what we may describe as a senior member
35 with various governance responsibilities in the Diocese,
36 were aware of what was said "around the traps" about child
37 sexual abuse occurring at Morpeth College?

38 A. Yes.
39

40 Q. Can I take you to that third dot point. It says:

41
42 *He indicated that Bishop Richard Appleby*
43 *had advised him that he had already been*
44 *interviewed by the police.*
45

46 Did you say that?

47 A. I think I said earlier that I was aware that

1 Bishop Appleby told me that he'd been interviewed on one
2 short issue about - can I just - I think [CKA].
3

4 Q. Can I take you to the dot point under this. It is
5 there recorded that you indicated that the greatest concern
6 to you in the context of Newcastle's history of abuse was
7 Graeme Lawrence and suggested that Graeme Lawrence had the
8 most to be concerned about personally with the
9 Royal Commission?

10 A. Those words come as a result of the Supreme Court
11 case, which I took no part in, and the action of the former
12 bishop in defrocking Graeme Lawrence, because that was very
13 much reported in the papers and that's what I drew on.
14

15 Q. So you did say this to John Cleary, you agree with
16 that?

17 A. Words to that effect, or that.
18

19 THE CHAIR: Q. I am sorry, what was the reason why you
20 understood Lawrence had to be concerned?

21 A. There was a Supreme Court case --
22

23 Q. I understand that.

24 A. -- by Lawrence and another and the Diocese and that
25 was given publicity and then the then bishop defrocked
26 Lawrence and that was reported very much in the newspapers.
27

28 Q. Yes, but that doesn't help me to understand why you
29 thought he should be concerned. Had he done something that
30 you thought should be of concern?

31 A. I didn't know if he'd done anything except what was
32 reported and the reasons given why the then bishop
33 de-licensed him or defrocked him.
34

35 Q. What were they?

36 A. That there had been an incident alleged in another
37 diocese with a person and the age of the person was in
38 dispute.
39

40 Q. We are talking about sexual matters, are we?

41 A. Yes, sir.
42

43 MS SHARP: Q. Are we talking about the age of the person
44 being in dispute because there was a suggestion of child
45 sex abuse?

46 A. Yes, I - yes.
47

1 THE CHAIR: Q. And you say that Graeme Lawrence only had
2 reason to be worried about a matter which had already been
3 the subject of public discussion; is that right?
4 A. Yes.
5
6 Q. As far as you knew, there was no other matter for him
7 to worry about?
8 A. No.
9
10 Q. That sounds strange. It's in the public domain
11 already. Why do you raise it in this context?
12 A. I think it had the potential to raise its head and be
13 unpleasant, which it probably may or may not.
14
15 Q. Did you know more about other allegations against
16 Mr Lawrence?
17 A. No.
18
19 Q. Have you heard of other allegations against
20 Mr Lawrence?
21 A. No.
22
23 Q. Never?
24 A. Never. He lived at Newcastle in a relationship which
25 is, I think, well known.
26
27 THE CHAIR: Very well
28
29 MS SHARP: Q. Are you telling the truth in your answers
30 to his Honour?
31 A. Yes.
32
33 Q. Can I take you to the second page of this file note,
34 please. Could I draw you to the third dot point. It is
35 there recorded in this note --
36 A. Can you go down a little?
37
38 Q. I will draw your attention to it, Mr Allen. It is
39 there recorded that:
40
41 *Allen advised that the "church had*
42 *influence over the police" up until recent*
43 *years and often things were dealt with by*
44 *a "wink and a nudge".*
45
46 Did you tell that to Mr Cleary?
47 A. That arose --

1
2 Q. Just answer the question - did you tell that to
3 Mr Cleary?
4 A. Not in - I don't think in those words.
5
6 Q. Did you use words to convey that impression to
7 Mr Cleary?
8 A. Yes.
9
10 Q. Why was it that you thought things were dealt with by
11 a wink and a nudge between the Church and the Police?
12 A. There was a program on, I think, the ABC where
13 a police officer and the press raised issues.
14
15 Q. Was that your only basis for thinking that things were
16 done --
17 A. Yes.
18
19 Q. -- with a wink and a nudge?
20 A. Yes.
21
22 Q. Is that true?
23 A. Yes.
24
25 Q. Next dot point:
26
27 *Allen advised that the Newcastle Anglican*
28 *diocese (including clergy) had a culture of*
29 *"looking after mates". This was often to*
30 *the detriment of victims.*
31
32 MR WATTS: Your Honour, I object. Unless my friend has a
33 different copy of this to me, the file note, pretty
34 obviously, has been corrected by Bishop Thompson where
35 there is something he said; that is, Bishop Thompson said
36 that.
37
38 MS SHARP: I accept that correction.
39
40 THE CHAIR: Q. While we are interrupted, go back to the
41 previous page, the last dot point:
42
43 *Allen spoke about applying to the*
44 *attorney general's department for free*
45 *legal counsel as soon as possible for the*
46 *royal commission. He then suggested that*
47 *"fixed" statements from various people*

1 *could be served on the royal commission and*
2 *that would then "put us in the driving*
3 *seat" as it would "reduce the likelihood of*
4 *cross-examination". However, Allen*
5 *suggested it was important that the Diocese*
6 *cross-examine [CKA] ... Allen also*
7 *suggested that a way of minimising*
8 *cross-examination by the royal commission*
9 *was to say that there is no record of*
10 *information anyway (he cited the example of*
11 *his wife's [REDACTED] medical records being*
12 *non-existent in some matters).*

13
14 Mr Allen, is that an accurate account of what you had to
15 say?

16 A. Can I just look at it --

17
18 Q. Yes, you can take your time.

19 A. I'd like the dot point so that I can read, because
20 I've got a page with neither the top or bottom. I think
21 it's back a bit; I still can't pick this up.

22
23 MS SHARP: I will just have a hard copy made available to
24 Mr Allen.

25
26 (Shown to witness)

27
28 THE WITNESS: I don't think the "Attorney General's" is
29 a correct statement; I don't think that was said. The
30 Commission would normally, in my experience, have given
31 assistance. I formed a view that there should be a full
32 disclosure and that may then speed up some things, right.

33
34 THE CHAIR: Q. Mr Allen --

35 A. Fixed statements?

36
37 Q. "Fixed statements", in inverted commas, that suggests
38 that is the word that you used, doesn't it?

39 A. I don't think I used that word. I think that's
40 Mr Cleary's word and he - I don't think I would have used
41 that as a word myself.

42
43 Q. He is talking about you speaking and suggesting that
44 "fixed statements" - he is attributing the word to you,
45 isn't he?

46 A. That's what the notes say, sir.

1 Q. You deny that you said that?
2 A. I don't think I used the words "fixed statements".
3 I held the view to Mr Cleary that we need to make full
4 disclosure.
5
6 Q. He also records that you suggested that a way of
7 minimising cross-examination by the Commission was to say
8 that there is no record of information anyway. He cited
9 the example of his wife's medical records being
10 non-existent in some matters. That suggests that you were
11 suggesting that there be some attempt to mislead the
12 Commission, doesn't it?
13 A. I don't - I would never want to mislead the
14 Commission.
15
16 Q. That is what it suggests, doesn't it?
17 A. That might be the suggestion but I would never want to
18 mislead the Commission, or any Commission, and I would want
19 to make a full disclosure. I - my wife was mentioned in
20 a statement and it was clear that --
21
22 Q. This is what you're saying. You see, these are your
23 words.
24 A. These are Mr Cleary's notes, sir.
25
26 Q. An account of what you said to him.
27 A. Yes.
28
29 Q. Yes. You have raised the question of your wife and
30 inadequate records or not complete records, haven't you?
31 A. Yes, that was raised, I think, before this Commission
32 last week, sir; not by me but by counsel.
33
34 MS SHARP: Q. Is it right that you were aware that your
35 wife had not produced medical records when they did in fact
36 exist?
37 A. No.
38
39 Q. Is it right that you were aware that your wife did not
40 produce medical records when they ought to have existed?
41 A. No. I don't know what period of time you are talking
42 about.
43
44 Q. I am not asking for a period of time, Mr Allen. Is it
45 right that you had knowledge that your wife had failed to
46 produce medical records when they existed?
47 A. I don't think --

1
2 MR WATTS: Your Honour, just before that question is
3 answered, are we to read into this that there is going to
4 be some suggestion that this witness's wife had been asked
5 by this Commission, or anybody --

6
7 THE CHAIR: No. No.

8
9 MR WATTS: I think --

10
11 THE CHAIR: No, you're right, I think the issue has been
12 covered adequately. It is just in the context of
13 understanding Mr Allen's approach to these issues that is
14 of concern to us

15
16 MS SHARP: Q. This note records you as suggesting it was
17 important that the Diocese cross-examine [CKA] "as [CKA] is
18 a problem". Did you say that?

19 A. I don't think I said the words "a problem." My memory
20 is it was the words "a wildcard".

21
22 Q. Why did you think [CKA] was a "wildcard" before the
23 Royal Commission?

24 A. Because of the tenor of his evidence at the trial of
25 [CKC].

26
27 Q. But, Mr Allen, that's a matter of public record what
28 [CKA]'s evidence was?

29 A. Yes.

30
31 Q. Why did you think he was a "wildcard" before this
32 Commission?

33 A. I think he was - well, I think he was a person who, in
34 my view, may say other things because we'd had the
35 incidents at [CKC]'s trial where there was a different
36 date.

37
38 Q. Did you have any concerns that the Royal Commission
39 might look at the conduct of the prosecution of [CKC]?

40 A. No.

41
42 Q. Are you sure about that?

43 A. Yes.

44
45 Q. Can I take you to the seventh dot point on the second
46 page. The note there records you advised that
47 Graeme Lawrence would be a focus of the police and the

1 Royal Commission and that Lawrence would "bring others
2 down." Did you tell that to Mr Cleary?

3 A. I don't know whether those exact words were, but
4 Lawrence had an association with I think the late
5 Graeme Sturt and I think Mr Bruce Hoare.

6
7 Q. I beg your pardon?

8 A. And Bruce Hoare.

9

10 Q. Let's be clear, Mr Allen. The events that led to
11 Graeme Lawrence's defrocking are a matter of public record.
12 This was not new information for the Royal Commission; do
13 you accept that?

14 A. Yes.

15

16 Q. What was it about Graeme Lawrence being a focus of the
17 police and the Royal Commission that would "bring others
18 down"?

19 A. They are Mr Cleary's words. I do not remember those
20 words being spoken. I'm not in a position to deny them
21 and --

22

23 Q. I will stop you there, Mr Allen, so we can try and get
24 through this examination this afternoon. Did you convey
25 something to Mr Cleary along the lines that, Lawrence would
26 "bring others down"?

27 A. They - as I said, they are Mr Cleary's words. That
28 may be correct or may not be correct. The --

29

30 Q. Mr Allen, I will stop you there. Are you confused in
31 any way, shape or form about what the connotation of this
32 part of the file note is?

33 A. May I look where you're talking about, ma'am?

34

35 Q. It is the dot point and I will read it to you again:

36

37 *Allen advised that Graeme Lawrence would be*
38 *a focus of the police and the*
39 *royal commission and that Lawrence would*
40 *"bring others down".*

41

42 Do you understand the connotation?

43 A. Yes.

44

45 Q. That's what you conveyed to Mr Cleary, isn't it?

46 A. I don't think - I don't know what Mr Cleary - I know
47 what Mr Cleary has written.

1
2 Q. Is that what you conveyed to Mr Cleary?
3 A. If that's what Mr Cleary says, yes, but I'm
4 not - I don't remember this conversation and I don't
5 remember there being any recording of it.
6
7 Q. Mr Allen, did you say words like this to Mr Cleary?
8 A. I probably think words to that or similar to that
9 may - would have been said.
10
11 Q. Did you hold that opinion at the time?
12 A. Yes, as a result of the --
13
14 Q. Why did you hold that opinion?
15 A. As a result of the defrocking and --
16
17 Q. That was a matter of public record by this time,
18 Mr Allen.
19 A. I appreciate that.
20
21 Q. Why was that going to "bring people down"?
22 A. There may have been, I don't know, other reasons.
23
24 Q. What do you know about Graeme Lawrence?
25 A. He was appointed the Dean.
26
27 Q. I withdraw that question. Are you aware of
28 allegations of impropriety being made against
29 Graeme Lawrence, excluding the events that led to his
30 defrocking?
31 A. Specifically, no.
32
33 Q. What does the word "specifically" add there?
34 A. Well, no.
35
36 Q. Mr Allen, you are giving evidence on your oath before
37 the Royal Commission. Are you aware in any way, shape or
38 form of allegations being made against Graeme Lawrence in
39 relation to sexual improprieties against children,
40 excluding the incident that led to his defrocking?
41 A. No.
42
43 Q. Is that the truth, Mr Allen?
44 A. Yes.
45
46 THE CHAIR: Q. Mr Allen, let's move on to the
47 second-last dot point on that page, or maybe the one before

1 it:

2

3 *Allen expressed a deep concern about the*
4 *management of "brown envelopes" ...*

5

6 Do you see that?

7 A. Yes, I can now see it, sir.

8

9 Q. Did you express that concern?

10 A. Yes. I was always concerned about the brown
11 envelopes.

12

13 Q. Why?

14 A. There was probably not enough disclosure and I - and
15 certainly I, and I don't know about my colleagues, never
16 knew all of the details of what happened.

17

18 Q. You are then recorded as saying that you felt uneasy -
19 this is the next dot point - about the management of
20 brown envelopes and that in hindsight it was wrong?

21 A. Yes.

22

23 Q. What was wrong about the management of the brown
24 envelopes?

25 A. There should have been openness about the whole of the
26 brown envelopes to those that were there.

27

28 Q. What Mr Cleary records you as saying is, essentially,
29 you were referring to the panel's management of these
30 envelopes, ie, "Child sexual abuse complaint files, and
31 that the panel self-determined whether it would take action
32 or not. Now, that suggests that you had access to the
33 files, doesn't it?

34 A. I know what is written in the statement. At no stage
35 did any member of the panel, apart from the Registrar or
36 the Bishop, have access to the files.

37

38 Q. What this says is that you, the panel, self-determined
39 whether to take action or not.

40 A. I think "self-determined" is a bad or a wrong word.

41

42 Q. But it's, I assume, true, that you, the panel, made
43 those determinations; is that right?

44 A. The panel discussed the facts in relation to
45 an envelope and may or may not have expressed a view as to
46 what should happen, but ultimately, all of that was left to
47 the Registrar and the Bishop.

1
2 Q. Are you telling the Commission that all of you sat
3 there while an allegation came forward and you talked about
4 it and what should be done about it, but none of you ever
5 knew who the allegation was made against?
6 A. Correct.
7
8 Q. Is that what you are telling the Commission?
9 A. Yes, sir.
10
11 MS SHARP: Q. Is that the truth?
12
13 THE CHAIR: Q. It goes on to say in the note:
14
15 *I read this to mean the panel itself,*
16 *rather than the law, determined whether the*
17 *Church should report matters to the police.*
18
19 Did you tell Mr Cleary that?
20 A. I have - no, sir, I don't believe I did.
21
22 Q. Has he made that up, do you think?
23 A. I don't know.
24
25 Q. He records the belief that this was done to minimise
26 the matters:
27
28 *Allen's that "do nothing" was often a valid*
29 *option and that the idea of "letting*
30 *sleeping dogs lie" was wrong.*
31
32 I understand that to be suggesting that you accepted that
33 the committee on occasions did nothing and let sleeping
34 dogs lie; is that right?
35 A. Yes, sir.
36
37 Q. But you believe that to be wrong?
38 A. Not that part.
39
40 Q. Not what part?
41 A. The bit about "'do nothing' was often a valid option
42 and that the idea of letting sleeping dogs lie was wrong",
43 I believe that is correct.
44
45 Q. What, that it was wrong to let sleeping dogs lie?
46 A. Yes, sir.
47

1 Q. Why was it wrong?
2 A. If breaches of the law had taken place, in my view, it
3 needed positive action.
4
5 Q. Did you ever tell the Bishop or the other members of
6 the committee, "Positive action needs to be taken here"?
7 A. I don't have a recollection of that, but I don't say
8 it was or it wasn't said. This is a long time ago, sir,
9 and no notes were ever taken of these meetings.
10
11 Q. No, I am aware of that, but you are saying today that
12 your conduct was wrong; is that right?
13 A. I think, yes. With hindsight, one took a passive
14 approach.
15
16 Q. With the consequence that abusers were able to
17 continue carrying out duties within the Diocese; is that
18 right?
19 A. I'm not certain of that, sir.
20
21 Q. That would be the consequence, wouldn't it? If you do
22 nothing and you know about an abuser, the consequence is
23 that nothing happens to them?
24 A. Yeah. Yes. Sorry, I suppose so.
25
26 Q. Did you appreciate at the time that you were talking
27 about risks to children when you were doing nothing?
28 A. We were not often - I don't think we were ever told as
29 to whether children were involved. The facts we were given
30 were very limited, but I'm not certain.
31
32 Q. So again, we have this sense that you are not told the
33 names, you are not told the location, you don't even know
34 the nature of the victim and yet, you are giving advice to
35 the Bishop about what should happen?
36 A. That was what was happening, sir, yes.
37
38 MS SHARP: Q. Do you accept that the Diocese, during the
39 brown envelope period, simply abandoned all responsibility
40 for those of its priests who were alleged to have committed
41 the improprieties considered?
42 A. There was - yes. There was probably no action taken
43 on some matters but I can't give details.
44
45 Q. It's right that in early 2015, Bishop Thompson stood
46 you down from all your roles within the Diocese of
47 Newcastle?

1 A. Yes.

2

3 Q. And he stood you down because he said that he was
4 deeply concerned about your involvement in
5 Professional Standards matters, didn't he?

6 A. I don't know what he said because I have - I don't
7 have any letter. He wrote me a letter and stood me down.

8

9 Q. All right. I will show you that letter. Can I show
10 you tab 401. It is a letter from Bishop Thompson to you
11 dated 13 April 2015? In that first paragraph he says:

12

13 *... I continue to have deep concerns about*
14 *your involvement with the Professional*
15 *Standards matters which are subject to*
16 *a Royal Commission and Police enquiry.*

17

18 A. That's what he said.

19

20 Q. You well understood that he was there referring,
21 amongst other things, to your involvement with these brown
22 envelope matters?

23 A. The answer would be probably yes.

24

25 Q. He was quite right to have deep concerns about your
26 involvement in these matters, wasn't he, Mr Allen?

27 A. That was a matter for the Bishop.

28

29 Q. He was quite right to have those concerns, wasn't he,
30 Mr Allen?

31 A. Yes, he probably was. He took action and that was the
32 end of it.

33

34 MS SHARP: I have no further questions.

35

36 <EXAMINATION BY MR ALEXIS:

37

38 MR ALEXIS: Q. Mr Allen, Alexis is my name and I appear
39 for Mr Cleary and Mr Michael Elliott. We know from
40 Mr Cleary's various conversations with you, which we see
41 set out in the file notes to which learned
42 Counsel Assisting has taken you, that one matter of
43 repeated reference was the steps that you, in company with
44 Mr Rosser, took to have Mr Elliott, the Professional
45 Standards Director sacked. Do you recall speaking to
46 Mr Cleary about that subject?

47 A. That was an issue that was before the

1 Diocesan Council, yes.

2

3 Q. You promoted the proposition that Mr Elliott be
4 sacked, didn't you?

5 A. I seconded Mr Rosser's motion --

6

7 Q. Well, that sounds like a promotion of that proposition
8 to me.

9 A. -- that the appointment of Mr Elliott, I think - and
10 this is my word - terminated, be terminated.

11

12 Q. Whether he be sacked or whether his appointment be
13 terminated, your position, I gather, is that you were
14 a quick seconder of Mr Rosser's motion for that to occur?

15 A. I seconded the motion to --

16

17 Q. Can you remind me when, approximately, did this occur?

18 A. I cannot give you a time or date, but it was at
19 a Diocesan Council meeting.

20

21 Q. It was before the investigation into Graeme Lawrence
22 commenced, wasn't it?

23 A. I can't say for sure.

24

25 Q. It was before the investigation by the
26 Professional Standards Committee commenced in relation to
27 others that also became the subject of Board inquiries,
28 wasn't it?

29 A. I'm not certain, sir.

30

31 Q. And the reason why you, in company with Mr Rosser, as
32 you understood it, were moving to have the Professional
33 Standards Director sacked or, to use your expression,
34 "terminated", was because you wanted to bring an end,
35 a very quick end, to those investigations proceeding?

36

37 MR B00TH: I object. Unless it is established that this
38 witness knew Mr Rosser's reasons, it can't be put that they
39 both joined forces.

40

41 MR ALEXIS: Let me withdraw it.

42

43 Q. Mr Allen, you well understood why Mr Rosser was
44 proposing the termination of the Professional Standards
45 Director's employment, weren't you?

46 A. Yes, I knew that Mr Rosser moved a motion. I don't
47 have any details of it.

1
2 Q. You seconded the motion?
3 A. I did.
4
5 Q. No doubt you did so for a reason?
6 A. To allow it to go on to the table to be discussed.
7
8 Q. Why did you support Mr Rosser's motion?
9 A. I thought that the open discussion needed to take
10 place.
11
12 THE CHAIR: Q. No, Mr Allen, please answer the question.
13 Why do you think there needed to be an open discussion?
14 A. Because there were some who held the contrary view
15 that his time should finish and I thought it needed to be
16 discussed at Diocesan Council.
17
18 Q. Did you have that view?
19 A. Yes, sir.
20
21 Q. Sorry?
22 A. Yes, sir.
23
24 Q. Why did you have the view?
25 A. There were some things that had happened in relation
26 to a person that he investigated which I didn't form the
27 view were appropriate.
28
29 Q. Mr Allen, we have skirted around this but I want to
30 address it squarely. There has been great controversy in
31 the Diocese about sexual abuse matters, hasn't there?
32 A. Yes.
33
34 Q. There has been great concern about the
35 Royal Commission coming to investigate the Diocese in
36 relation to these matters, hasn't there?
37 A. The investigation needed to take place, yes.
38
39 Q. No. There has been great concern about the
40 Royal Commission coming to look at these matters,
41 hasn't there?
42 A. Yes.
43
44 Q. A lot of people have not wanted the Royal Commission
45 to come; correct?
46 A. I don't know that.
47

1 Q. Well, some have said that to you, haven't they?
2 A. No.
3
4 Q. And others - you included - have been planning as to
5 how you might effectively defend the Diocese against the
6 investigation by the Royal Commission, haven't you?
7 A. No, sir.
8
9 Q. That's what is revealed in the notes of your
10 conversations with Mr Cleary, isn't it?
11 A. Those notes were on the basis that there would be
12 a full disclosure.
13
14 Q. There are, as it were, different groups within the
15 Diocese who are supporting different personalities in
16 relation to the allegations of sexual abuse, aren't there?
17 A. That's probably correct, sir.
18
19 Q. You are in one of those groups, aren't you?
20 A. No, not really.
21
22 Q. Not really? You have identified yourself very clearly
23 with those who support the previous Dean in the Cathedral,
24 haven't you?
25 A. I supported the Dean when he was the Dean of the
26 Cathedral.
27
28 Q. Yes. And you have continued to be in that side of the
29 Diocesan split, haven't you?
30 A. I don't know whether the Diocese is split or isn't
31 split and I haven't spoken to the Dean for years.
32
33 Q. Maybe not, but nevertheless there is a controversy
34 surrounding the Cathedral and there is, I suggest to you,
35 clearly, a division between different groups within the
36 Cathedral Parish; correct?
37 A. Parish?
38
39 Q. The Cathedral Parish. People take sides about these
40 issues, don't they?
41 A. Yes, I would have thought there would be a divergence
42 of opinion among the parish.
43
44 Q. Indeed, there are many who believe that what is
45 necessary in the Diocese is for a very serious boil to be
46 lanced, don't they?
47 A. Yes.

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Q. And of course you have resented the Bishop removing you from any office, haven't you?

A. Not greatly. If he'd have asked me to resign I would have gone, but he didn't.

Q. But you, nevertheless, resented the fact that the Bishop has denied you any office in the Diocese?

A. Yes, I suppose I did, after service for many years.

Q. And you put yourself into the group who is opposed to the changes which the Bishop is trying to bring about, haven't you?

A. I don't see it that way or I don't think that way. Whatever is to happen needs to happen to sort this problem out.

Q. One of the things the Bishop decided needed to happen was you needed to go, wasn't it?

A. He decided that.

Q. That's what he decided?

A. Yes.

Q. And that's because you had put yourself into the group who sought to defend what had happened in the past; correct?

A. Yes.

Q. And what you sought to defend was, do you accept now, indefensible?

A. Probably indefensible.

Q. That was because it was a do nothing and a cover up and protect the church approach, wasn't it?

A. That was a factor, sir.

Q. And you were part of that practice, weren't you?

A. Yes.

MR ALEXIS: Q. Mr Allen, it was for all of those reasons that his Honour has just articulated with you that caused you to be concerned about Mr Michael Elliott shining a light on these problems before the motion was put for his termination, wasn't it?

A. I don't know. Could you just give me the question again, please?

1
2 Q. You know when Mr Rosser put his motion, that you
3 supported by seconding it, that Mr Elliott had been working
4 hard to shine a light on all of the difficulties and all of
5 the problems of the past of which you have already given
6 evidence about today?
7 A. Yes, Mr Elliott was the Director of Professional
8 Standards and he was presumably doing his job, sir.
9
10 Q. Quite. You were concerned about that because you knew
11 that through his work and his efforts, those practices of
12 the past would be uncovered and disclosed?
13 A. I didn't know what Mr Elliott was doing, but whatever
14 happened in the past needed to be disclosed.
15
16 Q. If you didn't know what Mr Elliott was doing, why did
17 you second the motion for the termination of his
18 employment?
19 A. Because as I understand the procedure of the Diocesan
20 Council, if the motion was not seconded, there would be no
21 discussion.
22
23 Q. Let me move to another matter. On 5 March 2013, this
24 is about two years or so before the more recent
25 conversations with Mr Cleary that you have been examined
26 about today, you recall speaking with Mr Cleary in a moment
27 of candour during that afternoon in relation to
28 Reverend Gray and his activities?
29 A. Yes, probably.
30
31 Q. Do you recall giving evidence earlier today at
32 transcript 16673, learned Counsel Assisting asked you:
33
34 *Are you aware of any other allegations*
35 *being made that he sexually abused boys*
36 *while he was a priest within the Diocese of*
37 *Newcastle?*
38
39 Your answer to that question was, "No." Do you remember
40 giving that evidence earlier today?
41 A. Yes.
42
43 Q. When you answered that question you knew, didn't you,
44 that there had been other incidents concerning
45 Reverend Gray that you had reported to Mr Cleary back in
46 2013?
47 A. I don't particularly remember that. Mr Gray may or

1 may not of had a chequered life. I don't know.

2

3 Q. You seemed to have little doubt about it when you
4 answered learned Counsel Assisting's question earlier today
5 because she actually asked you quite expressly about your
6 knowledge concerning other allegations. You said no, you
7 didn't have any knowledge, do you remember that?

8 A. Yes.

9

10 Q. Well, do you now accept that Mr Gray, or
11 Reverend Gray, as at your knowledge in 2013 had somewhat of
12 a chequered past, to your knowledge?

13 A. Yes.

14

15 Q. See, back in March 2013 - and perhaps we could have up
16 on the screen, please, the document behind tab 357A of
17 exhibit 42-001, you told Mr Cleary that Reverend Gray's
18 behaviour at the Parish of Wyong had not been isolated to
19 the particular event relating to the then current
20 compensation claim. Do you see you are recorded there:

21

22 *Mr Allen advised the following ...*

23

24 And I have just put to you what is in the first sentence of
25 the first dash point, do you see that?

26 A. Yes.

27

28 Q. Do you see the detail of it, which is set out in the
29 quotation marks?

30 A. Yes.

31

32 Q. "... underage male on top of a table ..."; do you see
33 that?

34 A. Yes.

35

36 Q. You had forgotten that earlier today when learned
37 Counsel Assisting asked you a question about other
38 allegations, had you?

39 A. That's, as I understand it, the Gray matter.

40

41 Q. I see. I then want to bring you down to the last
42 sentence of that dash point. You see, you are recorded
43 there:

44

45 *Mr Allen advised that Bishop Holland was*
46 *aware of Reverend Gray's conduct in the*
47 *Diocese of Sydney prior to being a licensed*

1 *priest in the Diocese of Newcastle.*

2

3 Do you see that?

4 A. Yes.

5

6 Q. You will see that Mr Cleary has set that out in
7 quotation marks; do you see that?

8 A. Yes.

9

10 Q. Can you tell us how in March of 2013 you were aware
11 that Bishop Holland in turn was aware of Reverend Gray's
12 activities prior to being licensed in Newcastle?

13 A. I understand that Bishop Reid made Bishop Holland
14 aware. I don't have any specific details of the late
15 Mr Gray's service in a parish in Sydney.

16

17 THE CHAIR: Q. Mr Allen, just go back to the first
18 sentence which you skipped over a bit:

19

20 *Reverend Gray's behaviour at the parish of*
21 *Wyong was not isolated to the particular*
22 *event relating to the current compensation*
23 *claim.*

24

25 You then say that the episode on the table was the Gray
26 matter, as you put it. What was the matter the subject of
27 the "current compensation claim"?

28 A. I understood that the compensation claim was the
29 victim in relation to Gray's matter.

30

31 Q. That doesn't add up:

32

33 *Reverend Gray's behaviour was not isolated*
34 *to the particular event.*

35

36 A. Reverend Gray - there were unsubstantiated statements
37 about his conduct but not in relation to the church.

38

39 Q. I'm sorry? Reverend Gray - there is, what,
40 allegations about Reverend Gray misbehaving sexually; is
41 that right?

42 A. I understand that's so, sir.

43

44 Q. Why didn't you tell Counsel that when you were asked
45 that question today?

46 A. I don't know. It probably slipped my mind, but I'm
47 not certain and I apologise.

1
2 MR ALEXIS: Q. Mr Allen, when you told Mr Cleary about
3 Bishop Holland's knowledge concerning Reverend Gray's
4 conduct in the Diocese of Sydney, prior to being licensed
5 in Newcastle, what was the basis upon which you so advised
6 him of that?

7 A. My understanding that those words may or may not be
8 correct, and I am relying on my memory, but there were, as
9 I understood it, unsubstantiated stories about the conduct
10 of the late priest in Sydney.

11
12 Q. Perhaps you didn't understand my question. What was
13 the basis upon which you told Mr Cleary that Bishop Holland
14 was aware of that? Whether the story is substantiated or
15 unsubstantiated, what was the basis of your knowledge,
16 which you conveyed to Mr Cleary on this occasion, that
17 Bishop Holland was aware of it?

18 A. Bishop Holland was aware of the transgressions by the
19 late Mr Gray in the church hall.

20
21 Q. To your knowledge how did he, Bishop Holland, become
22 aware of that?

23 A. I certainly believe I made him aware, but I think he
24 was made aware of it long before he rang me on the day.

25
26 Q. Just come down to the --

27
28 THE CHAIR: Q. Just before you do that, there is
29 a reference in that note to you thinking it was amusing to
30 bring some lamingtons to the meeting.

31 A. Yes.

32
33 Q. Is that the case, you brought lamingtons to the
34 meeting?

35 A. I brought lamingtons to the Registrar of the Diocese.

36
37 Q. Why was it amusing to bring those?

38 A. The then Registrar had a funny sense of humour.

39
40 Q. But clearly you brought the lamingtons because that
41 was said to be part of the facts in relation to Gray's
42 abuse of a child. That's why you brought the lamingtons,
43 wasn't it?

44 A. No. It was part of a joke with the then Registrar.

45
46 Q. What was the joke?

47 A. I don't think that Registrar would eat one of the

1 lamingtons with the suggestion they were bought - they came
2 from the church. Those lamingtons were just bought at
3 a shop.
4

5 Q. Are you saying that that was a joke because the
6 lamingtons came from a shop?

7 A. The lamingtons were not made in the church hall, they
8 were bought at a shop by me, and I don't know where.
9

10 Q. Mr Allen, I put to you again, as this note records,
11 you brought them because you thought it would be funny to
12 bring lamingtons to a meeting to discuss the facts relating
13 to Gray where he was said to have had sex with an underage
14 male on top of a table of lamingtons on the table also,
15 that's why you brought them, wasn't it?

16 A. The - no. The lamingtons were bought, and I don't
17 think there was any discussion about the Gray matter,
18 that's my memory. I think there must have been another
19 church meeting on. It was probably a joke that one
20 shouldn't have made.
21

22 Q. Why not?

23 A. Well, in hindsight, really inappropriate.
24

25 Q. Why inappropriate?

26 A. Well, the suggestion - the Registrar knew about,
27 I believe, the facts of the transgression by Gray and he
28 just wouldn't have appreciated that taking place.
29

30 Q. But you thought it was amusing to take them, did you?

31 A. Well, there was some - yes. I perceived there was
32 some humour, however misguided that is.
33

34 Q. That is because you thought this whole thing was a bit
35 amusing, did you?

36 A. No, sir. It was a very serious transgression by the
37 late Reverend Gray.
38

39 Q. That's plainly so. This minute suggests you didn't
40 see it that way, doesn't it?

41 A. I know what the minute says and that is March 2013.
42 It's a long way back, sir.
43

44 MR ALEXIS: Q. Mr Allen, you will see a couple of dash
45 points down the reference to Bishop Richard Appleby.

46 A. I can't see those, sir.
47

1 Q. It will come to you in a moment. Do you see it now?
2 It is recorded there:

3

4 *Bishop Richard Appleby was also aware of*
5 *the problems ...*
6

7

8 Do you see that?

9 A. I can't see it on this screen at the moment. Sorry,
10 yes, I can now.

11

12 Q. It should be in the middle of your screen.

13 A. Yes, I see it now.

14

15 Q. We seem to have a theme within this particular
16 discussion between you and Mr Cleary about knowledge of the
17 bishops of the day concerning Reverend Gray's conduct, and,
18 in addition to Bishop Holland, you also appear to have
19 conveyed to Mr Cleary that Bishop Appleby was aware of it
20 as well; is that correct?

21 A. I don't think that's a correct assertion.

22

23 Q. Are you suggesting that you didn't convey to Mr Cleary
24 that Bishop Appleby was aware of the problems in relation
25 to Reverend Gray as well?

26 A. Bishop Appleby must have been aware when he obviously
27 had been to the particular parish.

28

29 Q. But let's get clear on what it is that you are
30 suggesting he was aware of. The reference to "the
31 problems" is a reference to Reverend Gray's misconduct with
32 a child; correct?

33 A. Yes, the subject of the criminal charge.

34

35 Q. You would reject, I gather, any suggestion that
36 Bishop Appleby's knowledge was limited to a few holes in
37 the wall apparently occurring during a moment of some
38 excitement or hostility?

39 A. I never knew of holes in the wall until many months
40 later and I had understood that - I hold the view that
41 Bishop Appleby knew of the principal offence.

42

43 Q. If we come down to the bottom of that first page, if
44 we could scroll down to that, please, you will see there is
45 a reference to you:

46

47 *Mr Allen advised Mr Cleary that*
Reverend Gray used to have meetings with

1 *groups of young boys under the rail bridge*
2 *at Wyong around the time that Nick Greiner*
3 *became Premier of NSW.*

4
5 A. There were stories of that.

6
7 Q. You will see the reference there to Reverend Gray,
8 according to what you conveyed to Mr Cleary, plying boys
9 with cigarettes and alcohol and then you told him "things
10 went on"; do you see that?

11 A. I see that.

12
13 Q. To the extent this was a story you conveyed this,
14 I gather, to Mr Cleary, during this discussion?

15 A. Words to that effect or similar, yes.

16
17 Q. Thank you. These stories, as you have referred to
18 them, I gather, were stories that were current in the
19 1980s?

20 A. 1980?

21
22 Q. What is your recollection as to when Nick Greiner was
23 Premier of the State?

24 A. I have no recollection as to when Mr Greiner was the
25 Premier.

26
27 Q. Were you hearing these stories then at that time?

28 A. It was at the time of Mr Greiner's new election, or
29 a bit before that.

30
31 Q. I think it was about 1983.

32 A. I can't help you, sir.

33
34 Q. In any event, when you received information of these
35 stories, as you have put it, I gather you conveyed the
36 content of those stories to the bishop of the day?

37 A. No, I didn't.

38
39 Q. What, not during the bi-annual meetings when the brown
40 envelopes were being reviewed?

41 A. I don't know. I don't think so, sir.

42
43 Q. Were you concerned about what you heard in relation to
44 Reverend Gray and groups of young boys meeting under
45 a bridge and plying them apparently with cigarettes and
46 alcohol?

47 A. There were - those stories flowed around. I have no

1 recollection as to who told me, what was told, but that was
2 the tenor of the late Mr Gray's activities.

3

4 Q. But you heard these stories and told no-one about
5 them, is that what you are saying to this Commission?

6 A. That's right.

7

8 Q. If you come over the page, learned Counsel Assisting
9 has asked you some questions about this and I am going to
10 be very brief with it, but you will see there is a dash
11 point second from the top of that page --

12 A. I can't see, sir.

13

14 Q. All right. You will see the second one at the top of
15 the screen:

16

17 *Mr Allen advised that the date of*
18 *resignation of the Reverend Gray was*
19 *falsified.*

20

21 Do you see that?

22 A. Yes.

23

24 Q. Can we just get some clarity around what you
25 understood the relevant act of falsification was when you
26 were speaking with Mr Cleary in March 2013. You have told
27 us, I think, that you ripped up or destroyed the original
28 letter of resignation?

29 A. Correct.

30

31 Q. Was that done because there was another letter of
32 resignation in existence that had been backdated to predate
33 the date of the offence?

34 A. I don't know. I can't - don't know. Never had a
35 discussion about that.

36

37 Q. When you ripped up the original letter of resignation,
38 did you have knowledge of the existence of the other letter
39 of resignation?

40 A. No.

41

42 Q. Why did you rip up the letter of resignation then?

43 A. I cannot remember, but I think there was something in
44 it that didn't need to go in it or something. I don't
45 know.

46

47 Q. What is it that you are referring to in connection

1 with the date of resignation being falsified?
2 A. The resignation, as I'm relying on memory, was
3 11 February, I think.
4

5 THE CHAIR: Q. No, that is the false date, Mr Allen,
6 isn't it?

7 A. Yes.
8

9 Q. Yes.

10 A. That was the resignation that went to the Diocese.
11

12 Q. That is the false one, isn't it?

13 A. Yes.
14

15 Q. That was prepared after you ripped the other one up,
16 wasn't it?

17 A. Yes, I believe --
18

19 Q. That's because the other one had a later date on it,
20 didn't it?

21 A. I think so but I am not certain.
22

23 MR ALEXIS: Q. The purpose of creating the false letter
24 of resignation - false because the date of apparent
25 resignation was known to be false - was intended to achieve
26 what?

27 A. It would have meant that the Reverend Gray was still
28 in good standing with the bishop of the diocese.
29

30 Q. It would also mean that he was not employed by the
31 diocese at the time of the offence; correct?

32 A. It would follow.
33

34 Q. So therefore in relation to any civil claim that arose
35 as a result of that incident, the diocese could deny
36 liability respectively; is that right?

37 A. I would have thought not, but that's my view.
38

39 Q. There is just another matter I want to take up with
40 you, Mr Allen. It concerns the letter that you wrote to
41 Bishop Herft on 28 April 2003. We will find that at
42 tab 121A of exhibit 42-001 and, again, learned
43 Counsel Assisting took you to this. I just want to ask you
44 one aspect of it that, I think, perhaps may have been
45 overlooked. You will see that in the fourth paragraph of
46 the letter - do you have that, if you could scroll down,
47 please. Thank you. You are telling the bishop that some

1 documents were subpoenaed. Then you raise an issue of
2 concern and you articulate that issue of concern in these
3 terms:

4
5 *The Year Books of the Diocese provide an*
6 *exact public record which may produce*
7 *problems in connection with the documents*
8 *produced under subpoena.*
9

10 Do you see that?

11 A. Yes.

12
13 Q. What you were seeking to draw attention to was the
14 prospect of the Diocese having within its records documents
15 which were inconsistent or documents that, when compared,
16 didn't sit happily together. That was the point of
17 concern, wasn't it?

18 A. No, I don't believe that was the point of concern.
19

20 Q. You know, don't you, that the parish register, of
21 which you were asked some questions earlier, contains
22 information that ultimately flows through into a parish
23 annual return that is provided to the Registrar?

24 A. Yes.
25

26 Q. The parish annual return ultimately flows into or
27 informs the year book to which reference has already been
28 made?

29 A. Yes.
30

31 Q. In a sense it is like a set of financial statements
32 for a corporate entity following through and informing the
33 content of a tax return. Should we understand that that is
34 similarly how these records work?

35 A. Yes, the information flows from the parish to the
36 Registry and is transposed into a year book.
37

38 Q. If the parish register was inaccurate or if the parish
39 register contained false entries in relation to, for
40 example, parish attendances or records of acts of Communion
41 and that sort of thing, then that would lead to the result
42 that the annual return would be wrong and therefore the
43 year book would be wrong?

44 A. It could flow, yes. If the numbers or something were
45 wrong, yes.
46

47 Q. Just coming back to the letter, where you refer in

1 that second sentence of the fourth paragraph to:

2

3 *The Year Books ... provide an exact public*
4 *record which may produce problems in*
5 *connection with the documents produced*
6 *under subpoena.*

7

8 I gather Bishop Herft, when he presumably received this
9 from you on about 30 April 2003, got in touch with you to
10 ask you what it was that you actually were trying to tell
11 him because it wasn't apparent from the letter?

12 A. I don't remember if the Bishop contacted me, I don't.

13

14 Q. Unless you have some idea about what documents had
15 been produced in answer to the subpoena, you would have no
16 idea what you were intending to convey by this letter,
17 would you?

18 A. No.

19

20 Q. Did you communicate with Bishop Herft? Did he contact
21 you and say, "What are you getting at here? What are you
22 trying to warn me about here?"

23 A. Not to my memory, sir.

24

25 Q. Can you tell us what it was that you were trying to
26 warn him about?

27 A. Relying on my memory, the subpoenas that were issued
28 produced documents flowing - copies of documents or
29 documents flowing to the Diocese from the Dean and those
30 documents went to the Diocese. I don't know whether
31 anything ever happened about them, sir.

32

33 Q. But you are seeking to draw a comparison between the
34 documents produced by the Dean and the year books. What
35 was that comparison intended to identify which was the
36 subject of your concern?

37 A. I don't think the year books had anything to do with
38 the subpoenaed documents.

39

40 Q. So why do we see a reference to that almost in the
41 same breath in paragraph 4 of your letter that there isn't
42 a connection?

43 A. I cannot give you a reason as to how the letter was
44 dictated in that manner.

45

46 MR ALEXIS: Thank you, sir. Thank you, your Honour.

47

1 THE CHAIR: Yes, Mr Gyles.

2

3 MR GYLES: I see the time. I am happy to continue. It is
4 up to your Honour.

5

6 THE CHAIR: We will keep going for a while.

7

8 MR SKINNER: In relation to my client as to when things
9 were being said or not, Mr Nicholas Greiner was elected as
10 Premier of the State in 1988, not 1983, and that was used
11 as sort of a date point, if I can just say that. I do not
12 know if it changes Mr Alexis's submissions at all, but that
13 should be noted at this stage, if I may. Thank you.

14

15 THE CHAIR: He was elected in --

16

17 MR SKINNER: March 1988, not 1983 as was put, which was
18 then used to date when rumours were floating around.

19

20 MR TEMBY: I am partly responsible because I suggested
21 1983 to Mr Alexis, and I realise now I was five years out.
22 1988 is about right.

23

24 MR ALEXIS: I am sorry, your Honour, when Mr Temby turned
25 and offered his helpful assistance, I thought the
26 information would be reliable for reasons we all would
27 understand.

28

29 MR WATTS: Your Honour, just on the question of
30 reliability, I am loathe to interrupt my friend, but
31 I gather a few people, apart from myself, want to ask this
32 witness questions. It has been a long day and he is not
33 a young man. With respect, I would ask that we adjourn and
34 come back tomorrow. The answers that the witness gives may
35 be more helpful to the Commission.

36

37 THE CHAIR: We will keep going until 4.15.

38

39 MR GYLES: Thank you, your Honour.

40

41 <EXAMINATION BY MR GYLES:

42

43 MR GYLES: Q. Mr Allen, my name is Mr Gyles. I appear
44 for Bishop Thompson. You will recall that you had
45 a meeting with Bishop Thompson in February of last year and
46 that meeting was called, I would suggest to you, because
47 you wanted to advise Bishop Thompson on how to prepare for

1 the Royal Commission. Do you recall that meeting?
2 A. I recall the meeting.
3
4 Q. You have been taken today through Mr Cleary's
5 file note of that meeting?
6 A. Yes.
7
8 Q. Can I suggest to you at the conclusion of that
9 meeting, Bishop Thompson said to you that "we could no
10 longer put up with mates looking after mates in this
11 diocese"?
12 A. I don't remember that being said, but I certainly
13 don't deny that it may have been said.
14
15 Q. Can I suggest to you that shortly afterwards you were
16 stood down from the roles that you had within the diocese?
17 A. Yes, that's probably correct. I don't have the dates.
18
19 Q. You said in answer to some questions from his Honour,
20 a little while ago, that that was the end of it. That is
21 not really correct, is it, Mr Allen? That hasn't been the
22 end of it from your point of view, has it?
23 A. I tried to discover from the Bishop all of - the
24 reasons and I have never been successful.
25
26 Q. But the point is, Mr Allen, that Bishop Thompson made
27 clear to you, didn't he, that you being stood down from all
28 of your roles within the diocese?
29 A. He did in a letter.
30
31 Q. Yes. He also made clear to you that you ought not
32 take up any governance or liturgical positions within the
33 parish, that's right, isn't it?
34 A. Yes.
35
36 Q. And despite those very clear and unambiguous
37 directions given to you by him, on 16 December of this
38 year, you wrote to him, didn't you, and said to him:
39 "I propose to stand for any position for which I am
40 nominated in the Parish of Terrigal annual general
41 meeting", didn't you?
42 A. Yes.
43
44 Q. That was, can I suggest to you, in direct
45 contravention of the direction that you had been given by
46 Bishop Thompson earlier in 2015?
47 A. Yes.

1
2 Q. Can you provide any justification whatsoever for
3 refusing to comply with a direction of the Bishop of this
4 Diocese, in seeking to hold on to some form of power of
5 responsibility within your parish?
6 A. I took up no position and had no, to use your words,
7 power or responsibility in the parish, and I still haven't.
8
9 Q. But you were prepared to seek election, weren't you,
10 to seek to retain some power and responsibility within the
11 parish, despite Bishop Thompson's unambiguous direction to
12 you?
13 A. I was not nominated and I didn't attend the annual
14 general meeting.
15
16 Q. You were a member of the Diocesan Council, weren't
17 you, for many years and would you agree with me that the
18 primary role of the Church is to provide emotional and
19 pastoral support to parishioners?
20 A. It's probably one of the roles.
21
22 Q. Isn't that really the primary - isn't that what it is
23 all about in the end, Mr Allen?
24 A. There is the proclamation of the Gospel.
25
26 Q. Apart from providing spiritual guidance, can I suggest
27 to you that on any view, if not the primary role, certainly
28 one of the primary objectives of the Church is to provide
29 emotional and pastoral support for parishioners?
30 A. Yes.
31
32 Q. A parishioner in times of vulnerability and personal
33 tragedy are the most in need of that support and guidance,
34 aren't they?
35 A. That could be.
36
37 Q. Ultimately the role of the Diocesan Council, can
38 I suggest to you, was to advise and assist the bishop of
39 the day to deliver upon that core objective of the Church?
40 A. The role of the Diocesan Council, as I understood, was
41 to advise the Bishop on issues that were raised by the
42 Bishop and on financial matters when the Synod was in
43 recess, sir.
44
45 Q. Can I suggest to you that to provide advice and
46 assistance to the Bishop, ultimately what is incumbent upon
47 the Bishop to do is to provide support for parishioners,

1 that's right, isn't it?

2 A. Yes. Parishioners and the clergy, I presume.

3

4 Q. All going well, parishioners would be able to look up
5 at the Cathedral on the hill in Newcastle and see it as
6 a welcoming and supportive presence; you would agree with
7 that, wouldn't you?

8 A. Yes.

9

10 Q. Particularly in times of vulnerability?

11 A. Yes.

12

13 Q. When you met with Bishop Thompson in 2005 he was
14 extremely concerned, wasn't he, about you having acted for
15 diocesan priests in criminal matters concerning alleged
16 sexual abuse of parishioners. I'm sorry. In 2015, he was
17 extremely concerned, wasn't he, about you having undertaken
18 that role in acting for diocesan priests who were accused
19 in criminal matters?

20 A. He raised the issue.

21

22 Q. You said to him that you were able to
23 compartmentalise, didn't you?

24 A. I may have said that and I may not, but I held - yes.

25

26 Q. Is that a view that you held at the time, that you
27 were able to compartmentalise between certain information
28 that you held?

29 A. Yes.

30

31 Q. Can you explain to his Honour what it was that you
32 meant by that expression?

33 A. That my professional practice had nothing to conflict
34 with the Church and there was no preclusion on any of the
35 positions I held to prevent me from practising.

36

37 Q. What you were really alluding to by saying that,
38 Mr Allen, can I suggest to you, was that there was
39 information that you were privy to that would or may have
40 been of assistance to you through your roles in the diocese
41 to assist in the defending of persons who were your clients
42 in those matters, that's right, isn't it?

43 A. That's what you've put to me. I would have been aware
44 of what a Service Register was and what entries would
45 probably appear in a Service Register.

46

47 Q. What I am putting to you is that by you using the word

1 "compartmentalising" information, implicit in that is
2 a recognition that there is some information that you
3 wouldn't normally have at your disposal in appearing for
4 a person who was accused of these sort of crimes?

5 A. There were certain professional issues that one would
6 never take to the Church and certain Church issues you
7 wouldn't take to your professional life.

8
9 Q. Your rationalisation of your ability to be able to do
10 that was to compartmentalise, to put those matters to one
11 side, when you were undertaking that role, that's correct,
12 isn't it?

13 A. Yes.

14
15 Q. You would accept, wouldn't you, that in such cases,
16 for example, in respect of the [CKA] and [CKB] complaints,
17 that in order to discharge your ethical obligations to your
18 client, namely, [CKC], that you needed to cast as much
19 doubt as possible on the credibility of the complainants
20 and the evidence that they were giving in those cases;
21 that's right, isn't it?

22 A. The role of the lawyers acting for an accused person
23 is to put the accused person's position as strong as
24 possible and to, I believe, cross-examine witnesses and
25 conduct the matter in accordance with the rules.

26
27 Q. Assuming that your instructions were that the relevant
28 conduct had not taken place, it necessarily involved,
29 didn't it, asserting that those who had come forward and
30 made the complaints were not telling the truth; that's
31 right, isn't it?

32 A. Counsel, instructed by me, cross-examined the
33 witnesses and I certainly, here, do not remember exactly
34 anything about the cross-examination particularly.

35
36 THE CHAIR: Q. Mr Allen, that was not the question you
37 were asked. Could you answer the question, please.

38
39 You may have to repeat it, Mr Gyles.

40
41 MR GYLES: Perhaps if it might be read back, your Honour?

42
43 Q. What I was putting to you, Mr Allen, was that in
44 circumstances where the instructions that you had been
45 given by your client were that the relevant events did not
46 take place --

47 A. Yes.

1
2 Q. -- it was inevitable, wasn't it, as part of
3 discharging your obligations to your client to say or to
4 take the position in that case that the evidence of the
5 complainants was false; that is, they were not telling the
6 truth in what they were saying about what had happened?
7 That's right, isn't it?
8 A. I answered "yes", sir.
9
10 Q. All right. You know in that matter the complainants
11 were parishioners within the Church where you sat on the
12 Diocesan Council?
13 A. Yes, I knew they were parishioners.
14
15 Q. You were in court last week and you heard from [CKA]
16 about the difficulties he had experienced in coming forward
17 to make the complaints that he ultimately made?
18 A. Yes. I heard some of [CKC]'s [sic] evidence. I don't
19 think I was in here for the whole lot, sir.
20
21 Q. One of the main concerns that he had, and survivors of
22 that character have, is that they are worried that people
23 won't believe them; that's right, isn't it?
24 A. I think he said words to that effect, sir.
25
26 Q. Not only having been subjected to the initial abuse
27 and years of shame and embarrassment, but after having the
28 courage to come forward and make a complaint to the police,
29 that individual has to be subjected to the court process?
30 A. Yes.
31
32 Q. Which involves cross-examination and testing of their
33 version of events; that's right, isn't it?
34 A. Yes.
35
36 Q. Right. In that case, in the case of [CKC], you were
37 a senior Church official at the time?
38 A. I don't necessarily agree I was a senior Church
39 official, that's --
40
41 Q. Can I suggest to you --
42 A. -- for others to judge.
43
44 Q. Can I suggest to you that as a member of the
45 Diocesan Council at that time, your obligation was to
46 assist the Bishop to bring about the fundamental charter of
47 the Church which is to provide pastoral and emotional

1 support for vulnerable people?

2 A. Yes.

3

4 Q. There could be no-one more vulnerable than a person in
5 that position who was subjected to the sort of abuse that
6 [CKA] and [CKB] suffered and had, after many years, come
7 forward?

8 A. The facts disclosed of the allegation were unpleasant.

9

10 Q. Can I suggest to you that your conduct in taking
11 instructions and acting in the defence of [CKC] was
12 diametrically opposed to the obligations and
13 responsibilities you had as a member of the
14 Diocesan Council at the time?

15 A. I didn't hold or consider any view at the time of the
16 proceedings.

17

18 Q. You tell us in tab 392 - and I don't need to go
19 there - that you were very pleased with your efforts and
20 you thought that you and Mr Rosser had done a good job for
21 [CKC] in that case. But can I suggest to you that instead
22 of sending a message that the Church would support and
23 believe survivors of abuse, that you, as a senior Church
24 person and a confidant of the Bishop, were saying that if
25 you come forward the Church will not believe you?

26 A. I don't know what the Church believes unless I am
27 a party to those things.

28

29 Q. What I am suggesting to you, Mr Allen, is that was the
30 signal that you were sending in that case to the person who
31 had come forward, which was the Church was challenging what
32 he was saying?

33 A. The Church - I don't know what the Church challenged,
34 but certainly [CKC] challenged what [CKA] was saying.

35

36 THE CHAIR: Q. Mr Allen, what is being put to you is
37 that the perception, given that you were a leading figure
38 in the Church, was that the Church was prepared to say to
39 people who came forward, "You're lying"; do you understand?

40 A. Yes. I didn't see it that way, but I can understand
41 what counsel is saying.

42

43 Q. Can you see it that way today?

44 A. Today is a different time than 2000-20 01 and one
45 would - I would certainly have taken a different view in
46 2016.

47

1 Q. Why?
2 A. I think society has changed. I think that there is
3 now more people coming forward, more publicity, and lawyers
4 who are involved in the Church would have to stand aside or
5 there'd be a perception of bias.
6

7 MR GYLES: Q. Mr Allen, you know, don't you, that that
8 is what [CKA] took from you and Mr Rosser appearing in that
9 case; that's right, isn't it?

10 A. I don't know what he took.
11

12 Q. You didn't hear that evidence last week?

13 A. I heard most of it, yes.
14

15 Q. You say sitting there, in 2016, that that is something
16 that you accept, but can I suggest to you that if you were
17 acting reasonably at the time of that case, acting in your
18 role on the Diocesan Council, and if the Bishop of the day
19 had said to you that another solicitor on the Council, say
20 Mr Caddies, for example, was proposing to act in criminal
21 proceedings for a diocesan priest accused by a parishioner
22 of child sexual abuse, that, acting reasonably, you would
23 have advised the Bishop that he should not be permitted to
24 do that and maintain his role on the Diocesan Council?

25 A. I don't think that is what would have happened in
26 2000-2001.
27

28 Q. Can I suggest to you that is the only way in which one
29 could accommodate the responsibilities that one has or
30 should have as a member of the Council advising the Bishop,
31 on the running of the diocese?

32 A. In 2001-2000, I don't think that set of circumstances
33 you are proposing ever was of issue that was given
34 consideration.
35

36 Q. What I am putting --
37

38 THE CHAIR: Mr Gyles, I think we have probably reached the
39 hour that we should adjourn. We will adjourn until
40 10 o'clock in the morning.
41

42 **AT 4.17 PM THE COMMISSION WAS ADJOURNED TO TUESDAY,**
43 **9 AUGUST 2016, AT 10AM**
44
45
46
47

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