

SPECIAL COMMISSION OF INQUIRY
INTO MATTERS RELATING TO THE POLICE INVESTIGATION OF
CERTAIN CHILD SEXUAL ABUSE ALLEGATIONS IN THE CATHOLIC
DIOCESE OF MAITLAND-NEWCASTLE

At Newcastle Supreme Court
Court Room Number 1, Church Street, Newcastle NSW

On Tuesday, 23 July 2013 at 10.20am
(Day 14)

Before Commissioner: Ms Margaret Cunneen SC

Counsel Assisting: Ms Julia Lonergan SC
Mr David Kell
Mr Warwick Hunt

Crown Solicitor's Office: Ms Emma Sullivan,
Ms Jessica Wardle

1 MS LONERGAN: Commissioner, I interpose [AH]. He will
2 read a statutory declaration that he has prepared. It is
3 of an intensely personal nature. Whilst his name and
4 identity is evident to those in court, his name is not to
5 be reported, and his pseudonym assigned for the purposes of
6 this Special Commission of Inquiry is to be used.

7
8 THE COMMISSIONER: Thank you. Yes, [AH], when you're
9 ready.

10
11 [AH]: Good morning. My name is [AH]. I am the victim of
12 James Patrick Fletcher whose abuse of me was the subject of
13 a criminal trial in 2004 where Fletcher was convicted on
14 all charges.

15
16 I don't want to talk about the abuse, which was
17 dreadful, and it has had a very significant impact on my
18 life and that of my family. It is documented in court
19 records and my statement describes the events and the level
20 of abuse I endured for years.

21
22 My mother's book describes the effect on my life and
23 I would like to submit some further chapters from then to
24 now.

25
26 I found it very hard to go to the police about the
27 abuse. I had tried to block it out, but there were many
28 times I was tormented by memories and the shame, anger and
29 embarrassment, which had, and still does have, a really bad
30 effect on me at times. I was all right if I could forget
31 about it for a while, but there was always reminders.
32 I actually thought I was just stuffing up my life at times,
33 until I guess I realised that I was and I am a victim.

34
35 On the first Sunday in June in 2002, I had a meeting
36 with mum and dad at lunchtime. We had many meetings over
37 the years, but I never did much about it. I told them
38 I wanted to go to the police, as I realised I wasn't
39 getting any better in managing the abuse myself.

40
41 A friend of ours said he would arrange a meeting with
42 a good policeman, who turned out to be Peter Fox. Thank
43 you, Peter, while I'm looking at you right now. Thanks.
44 That night I watched George Pell on television talking
45 to some parents of clergy sexual abuse victims and
46 I identified some of their behaviour with mine. I still
47 remember that night. I got very upset and I actually rang

1 Father Jim that night and gave him an absolute blast.

2
3 I thought I could just go to the police and tell them
4 everything and then move on, but I had no idea it would be
5 so hard to get the words out, and the process even still to
6 today - I'm here today, it's years and years later.

7
8 Detective Chief Inspector Peter Fox is a man of
9 integrity. Peter was very compassionate to me. He let me
10 take the time to get my statement out. I had a break over
11 Christmas when my son (suppressed) was born - it was lovely
12 to see him last night - but it took about 11 months, and it
13 was a tough process. I guess I'm being upfront and honest
14 in saying, yes, I suffered during that time and was
15 depressed.

16
17 What has really made the journey more difficult also,
18 and I think it needs to be understood, is the recent
19 exposure in the media, which I guess I've encouraged so
20 that a full-scale investigation can be played out, and the
21 right people need to be made accountable. They need to be
22 made accountable for how the abuse has been handled and how
23 it has been covered up. That's the reason I'm here today.

24
25 I've got down to paragraph 8 here on what I was going
26 to read out, and I've been advised that I need to leave
27 paragraph 8 out, so I'll skip over that.

28
29 I knew Fletcher at the time talked about me and a lot
30 of my troubles in the past. Much was made at the time of
31 alcohol-related incidents. Years later, I learned that on
32 the night - it's really hard to say this now, because I've
33 got a good girl and children - of the suicide attempt in
34 the shed at Glen Oak, he had actually told some friends who
35 were visiting about that, and I guess that was his way of
36 building on it and making himself feel good, at the end of
37 the day.

38
39 Dealing with this, when I'm out and about - when I was
40 out with my partner, her children, our baby, I was very
41 anxious as I didn't know who knew about the abuse and
42 allegations. If people looked at me for longer than
43 a second, I'd get upset and just assumed that they knew
44 what was going on. It's a hard thing to explain. In
45 shopping centres, at preschools, sporting events, work,
46 people seemed to be in a hurry or busy, or if I just tried
47 to have an ordinary conversation with someone, I was always

1 looking through them thinking, "Do you actually know what's
2 going on in my life at the moment?"
3

4 I knew Fletcher was getting support and preparing
5 himself and if there was going to be an arrest I think it
6 was unfair, as he was tipped off; there's no doubt about
7 that. It made Peter Fox's job a lot harder, as people did
8 close ranks. I know that mum and dad, in particular, were
9 dropped by church people, but not their friends and family.
10 There's still a similar crowd sitting over there now that
11 were sitting over there all those years ago supporting me.
12 So thanks for turning up.
13

14 There was strong support from family and friends I had
15 during that trial, but there was no clergy support at all.
16 I didn't want them, anyway, which is probably quite
17 obvious. We saw clergy visiting Fletcher at court and, of
18 course, his supporters. They didn't look at us. They sat
19 separately. It was the most amazing feelings, watching
20 just two sides, completely opposite.
21

22 After it was over, I still remember Bishop Michael
23 Malone - and I'll keep reading this statement; I don't want
24 to digress - rang dad and asked to speak to me. I took the
25 phone and he told me that Fletcher would never work in the
26 diocese again, and he asked me to keep my faith. To this
27 day, I wonder what "faith" he was talking about. That was
28 on the day when the news announced "Guilty" - it was "Keep
29 your faith, [AH]".
30

31 Since the court trial, I did, I guess, what only [AH]
32 could do. I picked myself up, attempted to move on in
33 life. I separated from my partner a few years after the
34 trial. I continued to work in my small business and met my
35 current partner, and I've had two more beautiful children.
36

37 We've separated several times. I lost my business,
38 due to many factors involved with the abuse, and I now work
39 in an office environment in the finance industry.
40

41 Over the last six months in particular, I've had
42 flowers delivered to work from complete strangers. People
43 have walked in off the street and shook my hand,
44 congratulating me. I've had completely random people
45 divulging the abuse that they've endured from the church,
46 schools or family members - complete strangers telling me
47 how they were abused when they were a child.

1
2 This, I guess, is a great reflection on what is going
3 on at the moment, and I would like to thank you again for
4 doing what you're doing, Commissioner, but I think no-one
5 understands that, even now, the memories are very vivid,
6 and I'm watching my life played out again in an environment
7 which each day is uncovering the truths about the Catholic
8 Church and its cover-ups.

9
10 Even seeing you, Allan - I haven't seen you for
11 I don't know how long, and unfortunately it's a memory.
12 Does that make sense?

13
14 MONSIGNOR HART: That's true.

15
16 [AH]: Oh, hello. I have not seen you for I don't know
17 how long it has been - 10 or 12 years. When I walked in
18 here today and looked at you, I thought, yes - that's what
19 I wanted you to understand. This is exactly what needed to
20 happen, this Commission, but you do ask the question if
21 they had done something about Fletcher years ago instead of
22 moving him around, would he have got to me? Would I have
23 continued on with my cricket and be playing in the Ashes
24 this year? They could use [BB] or [BC] at the moment.

25
26 Would I have gone to uni? I tried. And would I have
27 completed a degree? I should have. Would I have had
28 a better or a different relationship with my partner as
29 well? These are questions that I ask myself, and these are
30 the opportunities that have been taken away from me as
31 a result of the abuse and the church's failure, at the end
32 of the day, to handle a priest who was on their radar.

33
34 I would like to take the opportunity to congratulate
35 Peter Fox. Thank you again, Peter, and my mother and
36 father and my brothers. Thank you to the Commission, but
37 most of all, thank you to my partner and kids for keeping
38 it real and showing me the way to move forward. That
39 person is a long way away from me at the moment and just
40 smiles and says "Good luck" - that's about the only
41 communication I have with her about all of this, because
42 she knows to keep my life separate from it.

43
44 This is very challenging as I feel that I have lost
45 a part of my life and I cannot reclaim that, and I am so
46 many years behind everyone else due to the abuse. I love
47 my brothers. You've all got good jobs, but I'm jealous of

1 what you're doing. [BC], and [BAJ] as well - good blokes,
2 good jobs, but, gee, I think that competitive nature with
3 brothers, being the eldest, I look at the three of you and
4 think, no, I should be in front of you. You probably don't
5 agree, but that's what I feel at times.
6

7 I've relocated, and it's blacked out here where I am,
8 but just to get out of this area again. The memories -
9 Allan, like I said, the memories are too much, and there is
10 a bastardisation from some elements of this community that
11 is very much alive and kicking.
12

13 The breach of trust I have experienced at the hands of
14 the Catholic Church will affect me forever, as I was an
15 innocent little kid with a big hope for the future. The
16 priest James Patrick Fletcher - JPF-004, Peter. The
17 numberplate will always be in the head. He did a terrible
18 job on me, but I expected that when I finally got the
19 courage to tell someone about it, the church wouldn't let
20 me down and they would do the right thing. That wasn't to
21 be, and I believe that they've put more of an effort into
22 damage control than into caring for me.
23

24 Just to finish, thank you again for giving me the
25 opportunity to come up here today. I'm not looking forward
26 to the delay in Melbourne on the way home, and I think I'm
27 going to leave it at this now because there are so many
28 things that could be said, isn't there, and around the term
29 of reference thing that I need to keep in context. So
30 that's my statement. Thank you for doing what you're
31 doing, because you will find the truth.
32

33 THE COMMISSIONER: Thank you, [AH].
34

35 MS LONERGAN: Commissioner, I propose a 10-minute
36 adjournment.
37

38 THE COMMISSIONER: Yes. Just before we do, [AH], I want
39 to say you must always remember no shame attaches to you
40 and your courage has placed the shame, all the shame,
41 squarely where it belongs.
42

43 **SHORT ADJOURNMENT**

44

45 MS LONERGAN: Commissioner, before we proceed with
46 Monsignor Hart's evidence, I tender the statutory
47 declaration read out by witness [AH].

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THE COMMISSIONER: Thank you.

MS LONERGAN: Commissioner, I also seek a non-publication order. This has been informally advised by the Commission's media officer to the press, but I note for the record that the names of [AH]'s brothers are to be subject to a non-publication order, as is the name of his son.

THE COMMISSIONER: Yes.

MS LONERGAN: I tender the statutory declaration.

THE COMMISSIONER: That order is made in relation to the non-publication of those names. Thank you, Ms Lonergan. The statutory declaration by [AH] will be admitted and marked exhibit 126.

EXHIBIT #126 STATUTORY DECLARATION OF [AH]

MS LONERGAN: Commissioner, I call Monsignor Hart.

<ALLAN JAMES HART, sworn: [10.55am]

MR CAVANAGH: Commissioner, given that the witness has been resworn, I take the section 23 point again.

MS LONERGAN: There is one transcript correction from last Friday. It appears at page 1411 line 28. I thank Mr Cavanagh for drawing that correction to my attention. Where I asked the question, "Does this letter not mean that he ought not aware priestly clothing", it should read "wear priestly clothing".

THE COMMISSIONER: Quite so. That correction will be made.

MS LONERGAN: Q. Last Friday I asked you questions about whether you had any discussions at all with then Bishop Leo Clarke regarding allegations that McAlinden had sexually abused children. Do you recall those questions?

A. I do.

Q. Just to make sure I understand your evidence, is it the position that you in fact did have discussions with Bishop Leo Clarke about those matters?

A. Very brief.

1
2 Q. Very brief, but you had at least one discussion?
3 A. Yes.
4
5 Q. I suggest to you that you had a number of discussions
6 with him about allegations that Father McAlinden had
7 sexually abused children?
8 A. Well, he would tell me.
9
10 Q. Yes. I'm not suggesting that you necessarily raised
11 it with him.
12 A. Exactly.
13
14 Q. He would tell you.
15 A. Exactly.
16
17 Q. Are you able to say how many discussions you had with
18 him about that matter?
19 A. Not a lot.
20
21 Q. More than one?
22 A. Probably two or three.
23
24 Q. I asked you some questions regarding your knowledge or
25 otherwise of Bishop Leo Clarke keeping secret files. Do
26 you remember my asking you some questions about that last
27 Friday?
28 A. You did.
29
30 Q. You stated at page 1384 that you were not aware that
31 Bishop Leo Clarke ever kept confidential files on priests
32 of the diocese; do you recall giving that evidence?
33 A. I did.
34
35 Q. Do you adhere to that evidence?
36 A. I do.
37
38 Q. Did you ever see Bishop Clarke carrying around
39 a briefcase from his office to his home at the presbytery?
40 A. No.
41
42 Q. Never saw him carrying a briefcase in the whole time
43 you knew him?
44 A. Well, I'd like to know what do you mean by briefcase?
45 I mean, he had his normal papers.
46
47 Q. Right. His normal papers were carried in what - in

1 his hand?
2 A. No, no, usually a little - a briefcase - a - what do
3 you call it? - a small, little type of - like a carry bag,
4 you know.
5
6 Q. A bag?
7 A. Not a bag, no, not a bag.
8
9 Q. Like a briefcase?
10 A. Yes, but not a big - yes.
11
12 Q. You've held your hands out about two and a half to
13 three feet wide?
14 A. Yes.
15
16 Q. I'm not talking about dimensions. I'm talking about
17 the type of object it was. It was a briefcase, was it?
18 A. A briefcase.
19
20 Q. And do you know what he kept in the briefcase?
21 A. No.
22
23 Q. If I suggest to you that in that briefcase
24 Bishop Clarke carried confidential files regarding priests
25 of the diocese, you would be unable to say that that's
26 untrue?
27 A. I wouldn't know.
28
29 Q. You wouldn't know? It was never revealed to you what
30 he kept in his briefcase?
31 A. No.
32
33 Q. You never asked?
34 A. No.
35
36 Q. When Bishop Malone took over as bishop in November
37 1995, you were still vicar general, weren't you?
38 A. I was.
39
40 Q. Were you present for any handover between
41 Bishop Clarke and about to be Bishop Malone?
42 A. I was.
43
44 Q. You were? How long did the handover go on in your
45 presence?
46 A. It was very brief.
47

1 Q. So who was there - you and Bishop Malone and
2 Bishop Clarke?
3 A. Yes.
4
5 Q. Anyone else?
6 A. No.
7
8 Q. Why were you there?
9 A. Just to witness. Bishop took his cross, the episcopal
10 cross, off, pushed it across the desk to Michael and says,
11 "It's yours".
12
13 Q. You were there for that very special ceremony, were
14 you?
15 A. Yes.
16
17 Q. And that's all?
18 A. That's all.
19
20 Q. And then you left?
21 A. It was brief.
22
23 Q. You left?
24 A. Yes.
25
26 Q. After that was done?
27 A. Yes.
28
29 Q. Did then Bishop Michael and then retired Bishop Clarke
30 stay in the room or did they leave with you, or what
31 happened?
32 A. I think - my memory is Leo just walked out.
33
34 Q. Was there any discussion about a briefcase left in the
35 room?
36 A. Not to my knowledge.
37
38 Q. Did Bishop Malone ever talk to you about there having
39 been a briefcase --
40 A. No.
41
42 Q. -- left for him by Bishop Clarke?
43 A. Never.
44
45 Q. Did you ever have any discussions with any other
46 priest of the diocese about having located a briefcase that
47 held some papers in it that were related to diocese

1 business, some years after or some time after?
2 A. That was some years after.
3
4 Q. Yes.
5 A. Yes.
6
7 Q. What was that about?
8 A. It was about - there were some papers left after
9 I left Maitland, and a priest said, "There's some papers
10 here."
11
12 Q. The papers were in a briefcase, weren't they? That's
13 what you were told by that particular priest, weren't you?
14 A. He did mention "briefcase", you're right.
15
16 Q. He mentioned that the papers were in a briefcase?
17 A. Yes.
18
19 Q. He mentioned also, didn't he, that it was an old
20 briefcase of Bishop Clarke's and he wasn't sure what to do
21 with what was in the briefcase; that's right, isn't it?
22 A. Right.
23
24 Q. And he asked you about that because he thought you
25 might be able to help him?
26 A. Yes.
27
28 Q. Were you vicar general at the time this exchange
29 occurred or had you --
30 A. No, that was years later.
31
32 Q. Did you say words to the effect of, "Oh, they're
33 probably the bishop's secret files"?
34 A. Well, there's always - I might have said that, but --
35
36 Q. You might have said that?
37 A. I might have said it, but because I didn't know about
38 the secret files, I - I said - Leo never talked to me about
39 those things, you see, but the priest was convinced that
40 they were the secret files.
41
42 Q. What I suggest to you is that you said they were the
43 bishop's secret files, and you, in an answer a little while
44 back, said you might have said that, didn't you?
45 A. I might have said it until I opened them.
46
47 Q. All right. I'm not asking you about when you opened

1 them. I'm just asking you about a conversation you had
2 with a particular priest. It's Father Cahill we're talking
3 about, isn't it?
4 A. It is.
5
6 Q. What I suggest to you is that you said to him, "Those
7 are probably the bishop's secret files". Do you deny that
8 or accept that?
9 A. I probably did.
10
11 Q. And you probably did say that because you knew, didn't
12 you, that Bishop Clarke kept secret files on priests of the
13 diocese?
14 A. No, I really didn't know.
15
16 Q. Well, then, why did you say, "They're probably the
17 bishop's secret files"?
18 A. Well, people were saying, "Where are the secret
19 files?"
20
21 Q. You suspected that Bishop Clarke kept secret files; is
22 that the position?
23 A. I suspected, but I never knew where they were.
24
25 Q. You will appreciate I'm not asking you whether you
26 knew that they were.
27 A. I know that.
28
29 Q. Are you taking care to distance yourself from
30 knowledge of anything that was in any secret files kept by
31 the bishop about priests of the diocese?
32 A. No, not at all.
33
34 Q. On page 1395 from last Friday, Monsignor Hart, I was
35 asking you some questions about a lady who we refer to in
36 these proceedings as [AJ].
37 A. Yes.
38
39 Q. You know what we're talking about?
40 A. I do.
41
42 Q. I asked you this question at line 40:
43
44 *She was somebody you found to be a truthful*
45 *and open type of person?*
46
47 Do you remember that question?

1 A. Yes.
2
3 Q. And you answered, "Wonderful lady."
4 A. I did.
5
6 Q. I need to break down your answer there. Was [AJ]
7 someone that, in your experience, was a truthful person?
8 A. Excellent. Yes, always truthful.
9
10 Q. So if [AJ] told you something, you would accept it as
11 truthful?
12 A. I would. And I did.
13
14 Q. On page 1409, I just want to correct something I put
15 to you, monsignor. I referred to a decree having been
16 issued by Bishop Clarke relating to McAlinden, and I said
17 it was dated 23 February 1993. It has been drawn to my
18 attention that it was actually dated 27 February 1993, so
19 I hope I didn't confuse you with that information.
20
21 Monsignor, we are going to head back to your 1993
22 diary, which is exhibit 120.
23
24 If the witness could be shown the photocopy, which is
25 exhibit 120, and also if I could have a look at the
26 original 1993 diary.
27
28 THE COMMISSIONER: Ms Lonergan, may I just interrupt and
29 ask Monsignor Hart a question that occurred to me from one
30 of his recent answers.
31
32 Q. Monsignor, you said that people were saying, "Where
33 are the secret files?" Which people were saying that?
34 A. There was always interest by the clergy, "Where are
35 the files?", and I never knew.
36
37 Q. So it was other priests saying that?
38 A. Other priests.
39
40 Q. And you can't remember which ones at this stage?
41 A. No, no.
42
43 THE COMMISSIONER: Thank you, Monsignor Hart.
44
45 MS LONERGAN: Q. If you wouldn't mind opening the
46 original 1993 diary at the page where I've slipped in
47 exhibit 120, you will see on the right-hand side there's

1 a yellow post-it note. For those at the Bar table, it has
2 been photocopied as the third page of exhibit 120. Can you
3 see there's some handwriting on that yellow post-it note?
4 A. Yes.
5
6 Q. Is that your handwriting?
7 A. No.
8
9 Q. No?
10 A. It was a message from the secretary.
11
12 Q. Who was the secretary?
13 A. At that stage it would have been - what's her name? -
14 Mrs --
15
16 Q. We'll come back to that. Was it Ms Doyle?
17 A. No.
18
19 Q. The handwriting says:
20
21 *Can you ring Fr Brian Lucas.*
22
23 Do you see that?
24 A. Yes.
25
26 Q. Then there's a phone number with an 02 prefix. Don't
27 read the rest of it out. "Till 6pm tonight"?
28 A. Yes.
29
30 Q. Do you see in the left-hand side there's a word in
31 a circle which looks like "letter". Is that what it says?
32 A. Yes.
33
34 Q. Is that your handwriting, the word "letter" in the
35 circle?
36 A. It is.
37
38 Q. On the right-hand side there's the phrase "Servants of
39 the Paraclete" under the arrow on the right side?
40 A. Yes, yes.
41
42 Q. That's your writing?
43 A. Yes.
44
45 Q. Under that is "Dresses - him down" with an arrow
46 pointing downwards?
47 A. Yes.

1
2 Q. "Dresses - him down" - is that your writing?
3 A. Yes.
4
5 Q. And the square of arrows around it - is that your
6 doodling?
7 A. Yes, doodling.
8
9 Q. Do you remember making those entries on that yellow
10 post-it note? I know that sounds like a stupid question,
11 but do you remember the circumstances that led you to make
12 those notes?
13 A. I don't remember the circumstances, no.
14
15 Q. Do you remember what the message from Brian Lucas was
16 about?
17 A. I would have to say - this was after (suppressed) had
18 been, isn't it?
19
20 MS LONERGAN: Commissioner, could I ask for
21 a non-publication in relation to that name.
22
23 THE WITNESS: I'm sorry, [AJ]
24
25 THE COMMISSIONER: Yes, that order is made.
26
27 MS LONERGAN: Q. Could I ask you some questions to try
28 to establish that. It's a loose yellow post-it note that
29 we're looking at.
30 A. Yes.
31
32 Q. Are you able to say what part or what time frame in
33 1993 that note was in play? It currently appears as stuck
34 to the May 1993 part of your diary, but are you able to say
35 whether that's when you were having interface with
36 Father Lucas or not?
37 A. I would suspect that it's placed on that page.
38
39 Q. Monsignor, your legal representative, Mr Cavanagh, has
40 very helpfully pointed out that, at an earlier photocopying
41 of the particular diary, the post-it note we're now looking
42 at appears around about the week of 14 to 20 March 1993.
43 Does that assist with any consideration as to when the note
44 may well have been created?
45 A. It could be. But I'm just wondering, because it is on
46 that page, where it has there that Leo was going to the -
47 he was leaving for overseas, where it was.

1
2 Q. Which page are you looking at? What date?
3 A. On page - May.
4
5 Q. If you can take it from me that the location of the
6 document when it was provided by you to the Commission
7 earlier this year was between the week of 14 to 20 March
8 and the following week, but it has now ended up in
9 a different part of the diary. What I want to suggest to
10 you is that it was related to events in March 1993. Are
11 you confident about what it refers to or what time frame it
12 may relate to?
13 A. I'm not confident.
14
15 Q. Did you speak to Father Brian Lucas about anything
16 else in 1993 other than matters relating to McAlinden?
17 A. No.
18
19 Q. So we can safely assume this is related to McAlinden?
20 A. I would.
21
22 Q. Can I ask you what "Servants of the Paraclete" is
23 a reference to, if that's not too bold a question?
24 A. It appears to be a religious expression of a group of
25 people.
26
27 Q. And they're a group of people within the Catholic
28 Church who minister in a certain way in terms of their
29 beliefs and practices?
30 A. I would say that's what it was.
31
32 Q. Is there any relationship between McAlinden and that
33 particular group of people?
34 A. I don't believe so.
35
36 Q. Now, "Dresses him down" - can you help us with what
37 that might be a reference to?
38 A. I wouldn't remember.
39
40 Q. You had a number of conversations with Father Lucas,
41 did you, about McAlinden?
42 A. Very few.
43
44 Q. Very few, that's all right. We're not worried about
45 numbers. But you had at least one?
46 A. Oh, yes.
47

1 Q. I'm going to ask you to mine your memory for the
2 contents of those conversations with Father Lucas. The
3 first conversation you had with Father Lucas - what was
4 said? About McAlinden, that is.
5 A. A lot - I only rang Lucas when the bishop was out of
6 office, when I needed to - advice and --
7
8 Q. Did you retain Father Lucas, in effect, to do what he
9 needed to do about McAlinden, or had he been already
10 retained?
11 A. No, the bishop - he had been already retained.
12
13 Q. So the context of your first conversation with
14 Father Lucas was that the bishop had already done whatever
15 had to be done to retain Father Lucas's special services?
16 A. Yes.
17
18 Q. What was the content, as you remember it, of your
19 first contact with Father Lucas?
20
21 MR SKINNER: Could I ask my learned friend to begin
22 perhaps with a time and a place. I think the inference is
23 that we're talking about a telephone call, but it may not
24 be.
25
26 THE COMMISSIONER: Yes.
27
28 MS LONERGAN: I take Mr Skinner's point.
29
30 Q. Was your first contact with Father Lucas person to
31 person or was it on the phone?
32 A. I believe it would have been on the phone.
33
34 Q. And was your first contact with Father Lucas before or
35 after [AJ] told you about what had happened to her?
36 A. It was after.
37
38 Q. Was your first contact with Father Lucas before or
39 after [AL] had told you about what happened to her in terms
40 of McAlinden's abuse of her?
41 A. There would have been conversation with Brian, yes.
42
43 Q. Before or after [AL]?
44 A. After, after. After [AJ].
45
46 Q. So after [AJ], but now I'm asking you about [AL]. Do
47 you want to look at the pseudonym list to see who we're

1 talking about.
2 A. Yes, I know [AL].
3
4 Q. You know who [AL] is?
5 A. I do.
6
7 Q. Was your first conversation with Father Lucas before
8 or after [AL] had told you things about what McAlinden had
9 done to her?
10
11 MR SKINNER: I'm sorry, Commissioner, I might have misread
12 the transcript from last Friday or - excuse me a moment.
13
14 MS LONERGAN: I will withdraw that question, Commissioner,
15 and start with a more preliminary proposition.
16
17 Q. You know who [AL] is?
18 A. I do.
19
20 Q. At some point did [AL] tell you that she had been
21 sexually abused by McAlinden?
22 A. Yes.
23
24 Q. Do you remember when that was?
25 A. It's in the diary. My memory - it's in May,
26 I believe.
27
28 Q. In May 1993?
29 A. Yes.
30
31 Q. So at the time you first spoke to Father Lucas, can we
32 take it that [AL] had not yet disclosed to you, or was the
33 first time you spoke to Father Lucas after [AL] had
34 disclosed things to you?
35 A. I believe it was subsequent of - after, when I found
36 out.
37
38 Q. So you found out from [AL] about the abuse McAlinden
39 had carried out on her after you had first spoken to
40 Father Lucas?
41 A. Yes, yes.
42
43 Q. Your first conversation with Father Lucas - do you
44 have a recollection of it now?
45 A. Not really.
46
47 Q. Do you have sufficient recollection to be able to

1 state on oath that it concerned matters relating to [AJ]?
2 A. Because Leo was away over on the ad limina visit, it
3 would have been.
4
5 Q. What month did Bishop Clarke go to Rome for the
6 ad limina visit?
7 A. He flew out, I believe, on 5 May, and he came back in
8 June, about - 5 June he came back.
9
10 Q. Do you recall last Friday I showed you a document that
11 showed that McAlinden had had his faculties withdrawn in
12 February 1993; do you recall seeing that document?
13 A. I did.
14
15 Q. Was it the position that at the time the faculties
16 were withdrawn, McAlinden had already had interface with
17 Father Lucas or don't you know?
18 A. I don't know.
19
20 Q. You acknowledged that you at least became aware that,
21 in March 1993, McAlinden flew overseas to the United
22 Kingdom; do you recall acknowledging that last Friday?
23 A. Yes, yes.
24
25 Q. Is it your understanding that before he flew overseas,
26 McAlinden had already had some sort of meeting or interface
27 with Father Lucas, or don't you know?
28 A. I don't know.
29
30 Q. You said that you'd had a few conversations with
31 Father Lucas. I've taken you to the first conversation,
32 and your evidence is that you're not able to assist with
33 the contents of that. What about other conversations you
34 had with Father Lucas regarding McAlinden, can you give us
35 any details?
36 A. My memory would take us back to 1995.
37
38 Q. So you can't remember any other conversations with
39 Father Lucas until 1995?
40 A. No.
41
42 Q. You've given evidence to the effect that [AJ] is
43 a very truthful person?
44 A. Yes.
45
46 Q. You also are a truthful person, are you?
47 A. Yes.

1
2 Q. In relation to your dealings with [AJ], you would not
3 mislead her or lie to her about decisions made regarding
4 Father McAlinden, would you?
5 A. No.
6
7 Q. You would only tell her the truth about those matters?
8 A. Right.
9
10 Q. What I want to suggest to you, Monsignor Hart, is that
11 you told [AJ] words to this effect, "Bishop Leo and
12 Father Lucas have decided on a course of action with
13 McAlinden"; do you remember telling her that?
14 A. I did.
15
16 Q. What I want to suggest to you is that that was around
17 about February or March 1993. In terms of timing, does
18 that accord with your recollection or not, or are you
19 unable to say?
20 A. It would be difficult to say, but - yes.
21
22 Q. I suggest to you that you also said words to the
23 effect to [AJ], "This will be the first time this diocese
24 has ever gone down this path with a priest", and then you
25 outlined that the diocese - not necessarily you --
26 A. No.
27
28 Q. -- had contacted Father Brian Lucas in Sydney and that
29 Father Lucas was a qualified lawyer and that Father Lucas
30 would make contact with [AJ]. Do you remember saying those
31 things to [AJ]?
32 A. I do, actually.
33
34 Q. Do you recall also saying to [AJ] at that time that
35 Father Lucas would also need to take statements from [AL]?
36 A. Yes.
37
38 Q. And another person?
39 A. Yes.
40
41 Q. Did you talk to Father Lucas about how he was going to
42 go about his part of the arrangement with Bishop Clarke?
43 A. No.
44
45 Q. You took no part in that aspect of the matter?
46 A. I had no part in it. That was between Leo and Lucas.
47

1 Q. And whatever he had arranged. Did you ever see any
2 correspondence between Bishop Leo Clarke and Father Lucas
3 about how that would be attended to?
4 A. No.
5
6 Q. Did you ever see any correspondence from Father Lucas
7 to Bishop Clarke setting out the results of any such
8 discussions --
9 A. No.
10
11 Q. -- or matters relating to McAlinden?
12 A. No.
13
14 MR SKINNER: Excuse me, may I speak to Ms Lonergan?
15
16 THE COMMISSIONER: Yes, of course, Mr Skinner.
17
18 (Ms Lonergan and Mr Skinner confer)
19
20 MS LONERGAN: Q. I just want to check your evidence in
21 relation to one matter that Mr Skinner has raised with me.
22 As I understand your evidence, Monsignor Hart, you say you
23 had no role in making decisions or plans as to what was
24 going to happen with McAlinden; you're nodding "Yes"?
25 A. Yes.
26
27 Q. I put to you a couple of questions back, words to the
28 effect that you said certain things to [AJ] about what was
29 organised, and you're nodding "Yes"?
30 A. Yes.
31
32 Q. I suggested to you that what you said to [AJ] was that
33 the bishop and Father Lucas had decided on a particular
34 course of action?
35 A. True.
36
37 Q. And you accepted that proposition?
38 A. Yes, I did.
39
40 Q. Was it the position that you and Bishop Leo Clarke had
41 decided on a course of action with McAlinden?
42 A. No.
43
44 Q. And was it the position that you and Father Lucas had
45 decided on a particular course of action with --
46 A. Not to my knowledge.
47

1 Q. Did you tell [AJ] at any time prior to McAlinden
2 leaving Australia to go to the United Kingdom that you and
3 Bishop Clarke or you and Father Lucas or the three of you
4 had decided on a particular course of action?

5 A. I believe it was Leo, the bishop and Lucas.

6

7 Q. My question is directed at what you told [AJ]. Did
8 you tell [AJ] that that was what had been arranged?

9 A. I did.

10

11 Q. That is, the bishop and Father Lucas?

12 A. Lucas.

13

14 Q. Not you?

15 A. No.

16

17 MR SKINNER: Commissioner, in the interests of my client,
18 I wonder if we could get this in direct speech. My client
19 has --

20

21 MS LONERGAN: Commissioner, could I proceed with my
22 examination, and if Mr Skinner has a position to put via
23 his client's specific instructions, perhaps that could
24 happen at the appropriate time.

25

26 MR SKINNER: Well, it's an appropriate time to make an
27 objection, or perhaps an observation, that much of the
28 evidence about what this witness said or did not say to my
29 client is coming out in a very leading form. I have tried
30 to keep up. I have had an opportunity to speak to my
31 friend, and I'm grateful for that, about perhaps where some
32 of the source for those questions is. As a result of that
33 dialogue with my learned friend, she has re-put matters.
34 But it is still coming out in completely leading form. It
35 will require some testing, as my friend has just observed,
36 from me on behalf of my client, but I do ask while we're at
37 this form of the evidence, if we could possibly get it in
38 a non-leading way, it would elicit evidence that is of
39 greater weight, of more assistance to you and something
40 that can be better tested.

41

42 THE COMMISSIONER: At the moment, it's concepts, really,
43 about whether decisions had been made; had Bishop Clarke
44 and the witness decided something; had the witness and
45 Father Lucas decided something. So it doesn't really lend
46 itself to direct speech.

47

1 MR SKINNER: Perhaps I haven't made myself clear, if
2 I may.
3
4 MS LONERGAN: Commissioner, I think I understand what
5 Mr Skinner is talking about. I think it is in relation to
6 conversations with [AJ] that there is a particular
7 objection.
8
9 MR SKINNER: Yes, and it is the source for those
10 questions. My concern has been that perhaps an issue
11 wasn't put correctly in relation to that source. It took
12 me a moment to catch where it was coming from, because
13 I wasn't told where. It has now been re-put and it is
14 still in leading form. I wonder whether someone could ask
15 this witness the simple question, "Do you recall what you
16 said to [AJ], in your own words?"
17
18 MS LONERGAN: Commissioner, I'm conducting this
19 examination, not Mr Skinner. I have made decisions in
20 relation to the best way to lead appropriate evidence from
21 this witness. I am attempting to do so in a non-leading
22 form. This witness is a mature adult who is able to reject
23 a proposition if I put it to him and it does not accord
24 with his recollection. I am confident to this stage today
25 that the witness understands I am putting propositions that
26 he can accept or reject.
27
28 THE COMMISSIONER: Yes.
29
30 MS LONERGAN: I don't agree that I am doing it in a way
31 that is impermissible or inappropriately leading, but
32 I take on board Mr Skinner's sensitivities in relation to
33 his client and I will do my best to accommodate them.
34
35 THE COMMISSIONER: Thank you, Ms Lonergan.
36
37 MS LONERGAN: Q. Monsignor, please understand that if
38 I put a proposition to you and you don't agree with it or
39 you don't accept that that's how things happened, you must
40 say so. You will do that, won't you?
41 A. I will.
42
43 Q. Up to now, with the propositions that I have put to
44 you, have you accepted any that you don't agree with?
45 A. In relation to what you - what I said to [AJ]?
46
47 Q. Yes.

1 A. I would say that's true.
2
3 Q. When you say you would say that's true --
4
5 MR SKINNER: May I object --
6
7 MS LONERGAN: Can I examine the witness.
8
9 MR SKINNER: May I object.
10
11 THE COMMISSIONER: To what, Mr Skinner?
12
13 MS LONERGAN: Commissioner, it is not appropriate for
14 Mr Skinner to object to an answer when I am trying to mine
15 the very matter he has raised as an objection. If I could
16 be permitted to proceed?
17
18 THE COMMISSIONER: Yes, thank you, Ms Lonergan.
19
20 MS LONERGAN: Q. Monsignor, Mr Skinner represents
21 Father Lucas. He is concerned that I make sure I have
22 understood, and everyone in court has understood, your
23 evidence, and that it's your evidence; you're not just
24 accepting propositions that I put to you?
25 A. Okay.
26
27 Q. I'm going to go back to your conversations with [AJ].
28 Now, do you have an independent recollection of
29 a discussion with [AJ] as to what was planned in relation
30 to McAlinden? So after she told you what he had done to
31 her, and before anything happened, what recollection do you
32 have, if any, of a discussion with her?
33 A. This was the first discussion, you mean?
34
35 Q. Not when she came up to the diocese - well, if you did
36 tell her what plans were to be made about McAlinden when
37 she first came for the meeting up at the diocese with
38 you --
39 A. No, no, that was just - the first meeting was she
40 wanted me to arrange to see the bishop.
41
42 Q. Now, let's go to the next conversation you had with
43 [AJ]. What is your recollection of what you said to her
44 about what would happen?
45 A. My recollection, as far as I can remember, was to try
46 to walk with her, and therefore I said - I believe I said,
47 "We're going to try and walk with you", something of that

1 expression.
2
3 Q. Wasn't one of the things that she raised with you in
4 your first meeting with her in person that she was
5 concerned that Father McAlinden, as he then was, not offend
6 again with other children?
7 A. My word.
8
9 Q. So what plans did you communicate to [AJ], if any, as
10 to what would happen to deal with that aspect of [AJ]'s
11 complaint?
12 A. It was her suggestion that we find him a safe house.
13
14 Q. What did you tell [AJ] about how that suggestion of
15 hers was to be managed in terms of the diocese's actions?
16 A. I would have said to her that was the task of the
17 small committee that the bishop had.
18
19 Q. You say you would have said. Do you remember actually
20 having the conversation?
21 A. No, I don't, I don't remember.
22
23 Q. Had you any experience of the Maitland-Newcastle
24 diocese having ever gone through this type of process with
25 a priest prior to McAlinden in 1993?
26 A. Not to my knowledge.
27
28 Q. Were you aware of any other priest having been accused
29 of sexually abusing children from the Maitland-Newcastle
30 diocese as at February/March 1993?
31 A. No.
32
33 Q. Did you, in February/March 1993, believe that
34 Father Brian Lucas was a qualified lawyer?
35 A. I was told he was a qualified lawyer.
36
37 Q. Were you told that in February/March 1993 or before,
38 that he was a qualified lawyer?
39 A. I think that's what Bishop Leo said to me.
40
41 Q. That's your recollection, that Bishop Leo said that to
42 you?
43 A. That's my recollection.
44
45 Q. And he said that to you at or prior to February/March
46 1993?
47 A. After (suppressed) had spoken to me - [AJ].

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MS LONERGAN: Commissioner, I seek a non-publication order over the Christian name.

THE COMMISSIONER: Yes, that is granted, Ms Lonergan.

MS LONERGAN: Q. I want to ask you some questions about other phone calls you had with [AJ] directed at what was going to be done with McAlinden. Can you search your memory and state your recollection of the next in time, if you can do that, phone conversation or other conversation you had with [AJ] about what would be done with McAlinden?
A. My recollection was about trying to help her know that we're trying to help, and it was around the issue of the safe house - her expression.

Q. What about where McAlinden was at the time you were dealing with these matters? Do you recall now where he was located?

A. No.

Q. Do you recall that he had to be called back from somewhere else, as in he wasn't performing his duties physically in the diocese of Maitland-Newcastle; does that accord with your recollection or not?

A. Once again, I never, ever experienced him in that concept.

Q. No, I'm asking you a different question, and please, if you don't recollect, that's fine, but at the time you were dealing with [AJ]'s complaint and liaising with Bishop Clarke about it, was McAlinden, to your knowledge, serving in a parish in the diocese or not?

A. Not to my knowledge.

Q. Do you recall whether he had to be called back from another location for these matters to be dealt with? Do you know? And if you don't know, say so.

A. Well, I don't know, then.

Q. At some time in 1993 you became aware, didn't you, that McAlinden had gone to the United Kingdom?

A. Yes.

Q. He'd left Australia to go to the United Kingdom?

A. Yes

1 Q. You had some correspondence I showed you last Friday
2 with the archbishop's office in London about that?
3 A. Yes.
4
5 Q. So at some point clearly you became aware that he had
6 gone to the United Kingdom?
7 A. Yes.
8
9 Q. That was part of matters you had discussed with [AJ] -
10 the safe-house issue - was it?
11 A. In the context of the safe house.
12
13 Q. Did you have a conversation with [AJ] where McAlinden
14 being physically located in the United Kingdom was
15 discussed?
16 A. Could you repeat?
17
18 Q. Yes. Do you remember having any conversation with
19 [AJ] where you discussed with her or she discussed with you
20 the adequacy or otherwise of the arrangement that McAlinden
21 go to the United Kingdom?
22 A. My memory is that she wasn't happy, because he was
23 staying with his sister and brother-in-law. She wasn't
24 happy with that.
25
26 Q. In the United Kingdom?
27 A. Yes.
28
29 Q. And she wasn't happy about that?
30 A. Yes.
31
32 Q. Did she say why?
33 A. My memory is that she felt that he - there was no-one
34 to supervise him.
35
36 Q. Did you voice to [AJ] any personal view on your part
37 as to the appropriateness or otherwise of McAlinden being
38 sent to the United Kingdom or going to the United Kingdom?
39 A. No.
40
41 Q. As I understand your evidence from last Friday, it
42 wasn't your decision that that's what would happen.
43 A. No, that's right.
44
45 Q. Did you have a view at the time you were speaking to
46 [AJ] about McAlinden about what ought to happen with
47 McAlinden?

1 A. But I didn't express that.
2
3 Q. No, I didn't ask you whether you expressed that. Did
4 you have a view?
5 A. Personal view?
6
7 Q. A personal view.
8 A. Yes.
9
10 Q. What was it?
11 A. That the diocese should be doing something focused,
12 that the team that he's got - that the bishop had.
13
14 Q. That he shouldn't be sent overseas?
15 A. No.
16
17 Q. Did you have an opinion as to whether he should be
18 reported to the police?
19 A. I always - I always said that my expectation was that
20 when he was coming back from Western Australia, Bishop Leo
21 said he was going to be arrested when he got off the plane.
22
23 Q. Bishop Leo said that to you?
24 A. Yes.
25
26 Q. Was anyone else present when Bishop Leo said that to
27 you?
28 A. No, no.
29
30 Q. He was going to be arrested when he got off the plane?
31 A. Off the plane.
32
33 Q. Because of the allegations that he had sexually abused
34 [AJ]; was that your understanding?
35 A. Yes.
36
37 Q. Sorry if I've asked you this already, but was anyone
38 else present when you had this conversation with
39 Bishop Leo?
40 A. No, no.
41
42 Q. Did you personally discuss with Father Brian Lucas
43 this perception that Bishop Leo communicated to you that
44 McAlinden was going to be arrested when he got off the
45 plane from Western Australia?
46 A. That came from Leo, not Brian.
47

1 Q. No, I appreciate that, but did you ever convey
2 anything about that conversation you had with Bishop Leo to
3 Father Lucas?
4 A. No.
5
6 Q. Did you have an expectation as to what action, if any,
7 Father Lucas would take in relation to McAlinden being
8 reported to the police?
9
10 MR SKINNER: I object to this if it's founded on anything
11 that would clearly be hearsay, which it may well be. If he
12 has an expectation, it may be relevant, Commissioner, but
13 the source of it should be understood as being admissible,
14 in my submission.
15
16 MS LONERGAN: Commissioner, I haven't asked a question
17 about the source, so there is no hearsay yet.
18
19 THE COMMISSIONER: No.
20
21 MR SKINNER: I understand, but I'm getting a bit nervous
22 about sitting down too long, Commissioner. This is an
23 objection I am making in a timely fashion, if I may.
24
25 THE COMMISSIONER: Mr Skinner, can't Monsignor Hart be
26 asked whether he expected Father Lucas to do something?
27
28 MR SKINNER: Yes, but it should only be able to be given
29 with the content of what that expectation is, if that's
30 well founded. It's too late to object after the event if
31 it's not.
32
33 MS LONERGAN: Commissioner, I don't accept Mr Skinner's
34 objection, and I don't understand it as being related to
35 the question currently on the table.
36
37 THE COMMISSIONER: Yes, I will allow that.
38
39 MS LONERGAN: Q. Did you have an expectation about
40 whether Father Lucas would report anything about
41 Father McAlinden to the police? Did you have an
42 expectation?
43 A. My expectation was that Leo was going to do that with
44 Brian.
45
46 Q. With Brian?
47 A. Yes.

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Q. That's Father Lucas?

A. Yes.

MS LONERGAN: Is that a convenient time for morning tea, Commissioner?

THE COMMISSIONER: Yes.

MR SKINNER: Commissioner, I have an application to ventilate an issue which should be expressed in camera, not in the presence of the witness, so either now or upon the return?

MS LONERGAN: Commissioner, could I propose we deal with that at 5 to 12.

THE COMMISSIONER: Very well, we will deal with it at 5 to 12.

SHORT ADJOURNMENT.

MS LONERGAN: Commissioner, there has been a request by members of the press for a copy of the statutory declaration that was exhibit 126 to be released to the media. If those at the Bar table could let me or the others know by 1.15pm as to their attitude to that.

THE COMMISSIONER: Thank you.

MR SKINNER: Commissioner, I mentioned before the adjournment that I had an application. I don't seek to press that now. I have spoken to my learned friend. I am grateful for the opportunity. Through her good offices, that issue can be dealt with in a different way.

THE COMMISSIONER: And yours as well. Thank you, Mr Skinner.

MS LONERGAN: I thank Mr Skinner for the open discussion on the matter that arose and I hope we can deal with it in an appropriate fashion now.

I have been advised by Mr Hunt that it may well be that the exhibit about which I just noted a request had been made has already been released. So the record should be noted accordingly.

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THE COMMISSIONER: Thank you.

MS LONERGAN: I also note for the record that that particular document was circulated to those at the Bar table last week and certain matters were raised at that time regarding any potential objection, so I trust that has not caused any difficulty.

Q. Monsignor Hart, I was asking you some questions before the morning tea adjournment regarding matters relating to conversations you had with [AJ] about how McAlinden was dealt with in terms of accusations that he had sexually abused her. Do you remember those questions?

A. Yes.

Q. You have given evidence to the effect that you didn't have any decision-making role about what was going to happen to McAlinden.

A. True.

Q. And the person who makes those decisions in terms of how a priest ought to be managed for that type of behaviour in the diocese is the bishop, isn't it?

A. It is.

Q. Your understanding, if any, about how McAlinden was to be dealt with was provided to you by Bishop Leo?

A. True.

Q. In terms of who was doing what in managing McAlinden, all your information about that came from Bishop Leo Clarke?

A. True.

Q. Did Father Lucas tell you that he was involved in making any travel arrangements for Father McAlinden to the United Kingdom?

A. Not to my knowledge.

Q. In accordance with your knowledge, there's no basis for you expecting or suspecting that Father Lucas had any role at all in relation to making travel arrangements or plans for McAlinden to go to the United Kingdom?

A. True.

Q. That's the position?

1 A. True.
2
3 Q. In relation to such arrangements, you do understand
4 that McAlinden did go to the United Kingdom?
5 A. I do.
6
7 Q. As we understand your evidence, you don't know how
8 that happened? You're shaking your head - no?
9 A. I was - yes, because I was just mystified.
10
11 Q. Sorry?
12 A. I was just mystified.
13
14 Q. Mystified about how it happened?
15 A. Yes.
16
17 Q. Are you able to say, knowing Bishop Leo Clarke as you
18 would have then, whether you would expect that he at least
19 consented to that procedure that McAlinden would go to the
20 United Kingdom?
21 A. I can only say in light of what happened, he must
22 have.
23
24 Q. And you say he must have because a bishop always has
25 some control over where priests are allowed to go?
26 A. True.
27
28 Q. Is that the position?
29 A. True.
30
31 Q. Even ones who have, in effect, had their faculties
32 removed?
33 A. True.
34
35 Q. Is it the position that the priest remains
36 incardinated to the diocese for life?
37 A. Yes.
38
39 Q. Even if their faculties have been removed?
40 A. Yes, unless they're laicised.
41
42 Q. You know that Father McAlinden was never successfully
43 laicised?
44 A. He was never laicised.
45
46 Q. So, to that extent, the bishop of the diocese still
47 exercised control over where that priest was allowed to go?

1 A. He has a duty of pastoral care.
2
3 Q. I'm going to ask you to reach for some of the material
4 to your right, volume 3, and have a look behind tab 220.
5 You will see it's a typewritten letter by McAlinden,
6 addressed to Bishop Clarke.
7 A. Sorry, what number was it?
8
9 Q. It's tab 220.
10 A. Yes.
11
12 Q. Have you seen that letter before? It's dated 27 April
13 1993 from Clifden in County Galway?
14 A. Yes.
15
16 Q. Have you seen that before?
17 A. I have.
18
19 Q. When did you see it?
20 A. Because the bishop was in Rome, this letter came and
21 I opened it.
22
23 Q. And read it?
24 A. Yes.
25
26 Q. Did you respond to it as well? We can check the
27 correspondence if you don't actually recollect.
28 A. I did respond to this.
29
30 Q. "Received after my return from Rome 7/6/93" - that's
31 Bishop Clarke's writing?
32 A. That's Bishop Clarke's writing.
33
34 Q. Just read that letter to yourself, please.
35 A. Yes.
36
37 Q. It's McAlinden saying that the situation of living at
38 his sister's home in the United Kingdom isn't working out?
39 A. True.
40
41 Q. Does he appear to be asking the bishop to assist him
42 in providing some sort of accommodation for him?
43 A. It appears that way.
44
45 Q. In that letter, he refers to having been informed that
46 [AK] alleges that he, McAlinden, abused her some 30 years
47 ago. Now, are you able to say whether this was the first

1 time you knew of that allegation, when you read this
2 letter?

3 A. I didn't know who [AK] was.

4
5 Q. Can you have a look at the pseudonym list and just
6 satisfy yourself that [AK] is not somebody you've had any
7 particular interface with regarding McAlinden?

8 A. No, I've never - to my knowledge, I've never met her.

9
10 Q. Then it goes on to say:

11
12 *[AL] also informed me that Allan Hart told*
13 *her I had been a paedophile for over*
14 *40 years; now she is beginning to wonder*
15 *whether or not she herself had been*
16 *"abused" in the past.*

17
18 Allan Hart is you?

19 A. That is right.

20
21 Q. Did you ever tell [AL] that McAlinden had been
22 a paedophile for over 40 years, and by that I mean tell her
23 on or before April 1993?

24 A. Not before April 1993.

25
26 Q. Why is it, do you know, that McAlinden would be saying
27 that you had told [AL] that he had been a paedophile for
28 over 40 years?

29
30 MR GYLES: I object. How can he possibly answer that
31 question?

32
33 THE COMMISSIONER: If Monsignor Hart is unable to answer,
34 then he will say so, Mr Gyles.

35
36 MS LONERGAN: Yes, he may have some basis for this
37 accusation having been levelled at him.

38
39 THE COMMISSIONER: Yes.

40
41 THE WITNESS: What I was trying to say to [AL] - I was
42 trying to be supportive of her.

43
44 MS LONERGAN: Q. Can we take it from that answer that
45 some time in or prior to April 1993, you told [AL] that
46 McAlinden had been a paedophile for over 40 years?

47 A. Could have been an exaggeration.

1
2 Q. An exaggeration?
3 A. Could have been.
4
5 Q. Which bit, the 40 years or the paedophile?
6 A. Forty years.
7
8 Q. So you only knew at that time you had a conversation
9 with [AL] that he had been a paedophile for 39 years, or
10 what's the exaggeration?
11 A. Whatever the length of time was.
12
13 Q. So can we take it from your answer that you did not
14 know, in April 1993, that McAlinden had at least been
15 accused of paedophile activity for over 40 years? Do you
16 understand my question?
17 A. I do. I'm just trying to recollect that Leo Clarke
18 had told me, in a very brief briefing, that there were
19 accusations.
20
21 Q. Now, you recall your evidence last Friday was to the
22 effect that at some point you became aware from
23 Bishop Clarke about earlier allegations about McAlinden?
24 Do you remember giving that evidence?
25 A. I do.
26
27 Q. You thought that you might have seen a letter where
28 this matter was addressed, do you remember that, an old
29 letter where this matter may well have been addressed? Do
30 you recall giving that evidence?
31 A. I remember saying Patrick Cotter.
32
33 Q. Had written a letter about it?
34 A. Yes.
35
36 Q. Remember I showed you a letter in volume 1 of these
37 materials, and you thought that was not the letter?
38 A. No, that wasn't the letter.
39
40 Q. And you were confident, and are you still confident,
41 that you saw a letter written by Paddy Cotter that
42 addressed in some way assertions that McAlinden had
43 sexually abused children?
44 A. Yes, yes.
45
46 Q. And that it was quite an old letter from the time that
47 Paddy Cotter was the vicar capitular?

1 A. The vicar capitular, yes.
2
3 Q. So what years would that have been?
4 A. That would have been - Bishop Toohey died in 1974,
5 I believe, from memory. It was 1974, I think.
6
7 Q. So that means what in terms of Paddy Cotter being the
8 vicar capitular?
9 A. Because we didn't have a bishop for 18 months.
10
11 Q. For an 18-month period from the time Bishop Toohey
12 died --
13 A. Until Leo came.
14
15 Q. -- and before Bishop Leo came, Monsignor Cotter was
16 the vicar capitular?
17 A. Yes.
18
19 Q. Should I understand your evidence to be that, as at
20 April 1993, based on information that Bishop Clarke had
21 told you, you were aware that there were allegations about
22 McAlinden going back as far as 40 years before this letter,
23 or maybe not that far, or what's the position?
24 A. About that time. He just expressed that there -
25 there's always been difficulties.
26
27 Q. And you said that to [AL]?
28 A. I did.
29
30 Q. As part of your pastoral care?
31 A. Yes.
32
33 Q. And acknowledgment of her allegations?
34 A. Yes.
35
36 Q. And you made that statement based on things that
37 Bishop Clarke had told you?
38 A. Yes.
39
40 Q. Did Bishop Clarke show you the letter from
41 Monsignor Cotter?
42 A. No.
43
44 Q. How did you know that that letter existed?
45 A. That came when it came out in the Newcastle Morning
46 Herald [sic], many years ago.
47

1 Q. During the luncheon adjournment I will get you to read
2 the letter that appears behind tab 59 that has been
3 tendered in these proceedings. It's quite a long letter.
4 I am going to ask you some questions about that, so I will
5 come back to that?

6 A. Okay.

7

8 Q. Do you see in the next paragraph there's mention by
9 McAlinden:

10

11 *I'll be writing also to Fr. Brian Lucas to*
12 *inform him of the situation; I think he*
13 *already expressed doubts of the wisdom of*
14 *going to Skegness in the first place.*

15

16 Do you see that?

17 A. Yes

18

19 Q. Did you have any idea what that was a reference to?

20 A. No.

21

22 Q. Did you contact anybody to discuss any of the contents
23 of this letter other than McAlinden?

24 A. I wrote - this is where these letters, I think, is
25 it - the letters that I wrote over to Nottingham, wasn't
26 it?

27

28 Q. We'll come back to that.

29 A. Yes.

30

31 MS LONERGAN: I tender the letter dated 27 April 1993 from
32 McAlinden to Bishop Clarke.

33

34 THE COMMISSIONER: Thank you, Ms Lonergan. The letter of
35 27 April 1993 from McAlinden to Bishop Clarke will be
36 admitted and marked exhibit 127.

37

38 **EXHIBIT #127 LETTER DATED 27/04/1993 FROM DENIS MCALINDEN**
39 **TO BISHOP CLARKE (TAB 220)**

40

41 MS LONERGAN: Q. I'm going to ask you to turn to the
42 next tab, Monsignor Hart, and that appears to be a letter
43 from you to McAlinden dated 14 May 1993.

44 A. Yes.

45

46 Q. Just read that to yourself.

47 A. Yes.

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Q. Monsignor, this is your letter to McAlinden, written in the absence of Bishop Clarke because he was overseas?

A. True.

Q. You refer in the second paragraph to "the protocol", and you have that word in inverted commas, being put in place when the accusations were made.

A. Yes.

Q. Do you know what the content of the protocol was?

A. The protocol was his suspension of his faculties.

Q. You say:

... there was no prior discussion between the Bishop and Fr Brian regarding your placement.

Do you see that?

A. True.

Q. Can we take it you put that in there because you had satisfied yourself that that was the position?

A. Yes.

Q. Why did you make that particular statement there? Are you referring to any conduct by McAlinden or --

A. No.

Q. So what's that referring to?

A. I'm just saying that there was no prior discussion between the bishop and Father - regarding the placement, to my knowledge.

Q. The rest of the letter deals with your suggestion as to assistance he may be able to get in terms of somewhere to live in the United Kingdom; is that a fair summary?

A. Yes.

Q. Is it fair to say that Mallow, in County Cork, isn't part of the United Kingdom, wasn't part of the United Kingdom in 1993, either, so when I say "United Kingdom", I mean United Kingdom or the Republic of Ireland; is that a reasonable statement?

A. Mmm.

1 Q. In the second-last paragraph on the second page, you
2 state this:

3
4 *I will write to them -*

5
6 that is, a particular house, Nazareth House, in Mallow,
7 County Cork -

8
9 *to see if they have any vacancies and the*
10 *financial arrangements that they require.*

11
12 At that point, was the diocese still paying some stipend to
13 assist with accommodation for McAlinden? You nodded.

14 A. I'm not too sure of that question.

15

16 Q. But you see that comment in the letter suggests that
17 financial arrangements were going to be contributed to by
18 the diocese; is that a reasonable reading of that part of
19 the letter or not?

20 A. No. This letter - this information of this house came
21 to me from Brian Lucas.

22

23 Q. So the financial arrangements that they required
24 didn't necessarily mean the diocese was going to pay
25 anything?

26 A. No, no.

27

28 Q. It was just to let him know what the arrangements
29 would be?

30 A. Yes.

31

32 MS LONERGAN: I tender that letter, Commissioner.

33

34 THE COMMISSIONER: The letter to Denis McAlinden from
35 Monsignor Hart of 14 May 1993 will be exhibit 128.

36

37 MS LONERGAN: Q. Do you see behind tab 222 is a fax
38 cover sheet from you to Father Lucas dated 14 May 1993?

39 A. Yes.

40

41 Q. Is it the position that you sought Father Lucas's okay
42 for the letter that you planned to send before you sent it?

43 A. Yes, I did.

44

45 MS LONERGAN: I tender as part of the last exhibit,
46 Commissioner, the fax from Monsignor Hart to Father Lucas
47 dated 14 May 1993.

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THE COMMISSIONER: Yes, the fax to Father Lucas from Monsignor Hart will be part of exhibit 128.

EXHIBIT #128 LETTER TO DENIS MCALINDEN FROM MONSIGNOR HART, DATED 14/05/1993 (TAB 221) AND FAX TO FATHER LUCAS TO MONSIGNOR HART, DATED 14/05/2013 (TAB 222)

MS LONERGAN: Q. And on that fax cover sheet is a handwritten note. Is that your note:

*Brian, phoned -
delighted
no problem
AJ.*

Do you see that?
A. It is.

Q. So that's your note?
A. Yes.

Q. That's dated 14 May 1993. All right. Behind tab 223 is a letter that you sent to McAlinden dated 18 May to assist with contact with a particular person in England, Monsignor Leonard.
A. Yes.

Q. Was he to be a spiritual adviser or a helper, or who was he?
A. My understanding was from Brian that this was the man in that part of the world that looked after these issues.

Q. "These issues" being what?
A. Problems with some of our clergy.

Q. "Problems with the clergy" being what?
A. Could be alcoholism or whatever.

Q. Or paedophilia?
A. Well, it was a place where people were cared for. Basically, I believed - I don't know anything about these places, actually.

Q. But it was your understanding at the time that this particular person would assist in issues that were affecting clergy?

1 A. Yes.
2
3 Q. Alcoholism, matters of that nature?
4 A. Yes.
5
6 Q. And would it also include problems with sexual acting
7 out, such as paedophilia?
8 A. I presume so.
9
10 MS LONERGAN: I tender that, Commissioner.
11
12 THE COMMISSIONER: The letter from Monsignor Hart to
13 Mr D McAlinden of 18 May 1993 will be admitted and marked
14 exhibit 129.
15
16 **EXHIBIT #129 LETTER FROM MONSIGNOR HART TO MR D MCALINDEN**
17 **DATED 18/05/1993 (TAB 223)**
18
19 MS LONERGAN: Q. Do you have a recollection about who
20 advised you of the details of that particular person?
21 A. Brian Lucas.
22
23 Q. Behind 224 is a letter from you to the sister
24 administrator at the Sisters of Nazareth at County Cork
25 dated 20 May 1993?
26 A. True, and this advice was given by Monsignor Leonard.
27
28 Q. As to where he should be sent, "he" being McAlinden?
29 A. Yes.
30
31 Q. You note in your letter that he is not allowed to say
32 public masses or to appear in public as a priest but may
33 say a private mass?
34 A. Yes.
35
36 Q. I asked you last Friday some questions as to whether
37 the removal of faculties, as you understood it, meant he
38 wasn't allowed to dress as a priest. Does this letter not
39 suggest that he ought not dress as a priest, or is that not
40 the way I should read it?
41 A. He ought not.
42
43 Q. Did you personally tell McAlinden that that was the
44 position, or did you not have an opportunity?
45 A. I didn't have an opportunity.
46
47 MS LONERGAN: I tender that letter, Commissioner.

1
2 THE COMMISSIONER: The letter of 20 May 1993 to the sister
3 administrator of the Poor Sisters of Nazareth in County
4 Cork, Ireland, from Monsignor Hart, will be admitted and
5 marked exhibit 130.

6
7 **EXHIBIT #130 LETTER DATED 20/05/1993 TO THE SISTER**
8 **ADMINISTRATOR OF THE POOR SISTERS OF NAZARETH IN**
9 **COUNTY CORK, IRELAND, FROM MONSIGNOR HART, DATED 20/05/2013**
10 **(TAB 224)**

11
12 MS LONERGAN: Q. Monsignor, do you recall whether you
13 received any response from that particular organisation?

14 A. From the sisters?

15
16 Q. Yes.

17 A. I've got a vague memory that they said no.

18
19 Q. They said no?

20 A. I've got a vague memory.

21
22 Q. Were you given any reasons why, in your recollection?

23 A. No, I don't.

24
25 Q. Behind tab 225 is a letter from McAlinden to
26 Bishop Clarke. It's dated 20 June. Are you able to assist
27 with whether you saw this letter yourself?

28 A. No. I've never seen this letter.

29
30 Q. As Bishop Clarke's vicar general, did you have any
31 role in assisting him in attending to matters such as
32 insurance for the diocese?

33 A. No.

34
35 Q. None at all?

36 A. No.

37
38 Q. Didn't advise him about what policies to take out or
39 how to complete any forms or anything of that nature?

40 A. No.

41
42 Q. Have a look at the document behind tab 229. Actually,
43 before you do so, don't turn the page yet. I'll just ask
44 you some questions. Did Bishop Clarke tell you anything
45 about McAlinden's meetings or meeting with Father Lucas?

46 A. No.

1 Q. Nothing at all?
2 A. No. Not to my memory.
3
4 Q. Did Bishop Clarke tell you that Father Lucas actually
5 met with McAlinden or not?
6 A. I've got no recollection of that.
7
8 Q. Didn't you want to know whether the things that had
9 been set in train to deal with McAlinden, given [AJ]'s
10 complaint to you, had happened?
11 A. No, I just left it alone.
12
13 Q. But didn't you want to know whether McAlinden was
14 going to be free to go around the country abusing children?
15 A. You see, my - I go back to what I said --
16
17 Q. No, I'm going to stop you.
18 A. Okay.
19
20 Q. Didn't you want to know whether McAlinden was going to
21 be left free to move around the countryside abusing
22 children?
23 A. I wanted him to be in some place where we could
24 contain him.
25
26 Q. Didn't you want to know whether what Bishop Clarke had
27 started, which, as I understand your evidence, involved
28 Father Lucas doing something - didn't you want to know what
29 the result of that process was?
30 A. I left it to them to tell me.
31
32 Q. Are you saying they didn't tell you?
33 A. No.
34
35 Q. So you never found out whether Father Lucas had
36 interviewed McAlinden?
37 A. No.
38
39 Q. Are you sure about that?
40 A. Well, to my knowledge.
41
42 Q. Didn't you tell [AJ], didn't you report back to [AJ],
43 that Father Lucas had interviewed McAlinden?
44 A. I probably did. I can't remember saying it.
45
46 Q. But if you probably did, you must have known that that
47 in fact had occurred; isn't that right?

1 A. I knew they were trying to arrange something, but -
2 I don't know.
3
4 Q. You wouldn't have told [AJ] an untruth about what had
5 happened, would you?
6 A. No, I was trying to support her in this journey.
7
8 Q. But it wouldn't have been supportive of her to ring
9 her and tell her an untruth about what happened?
10 A. Oh, no.
11
12 Q. So if you told [AJ] that Father Lucas had met with
13 McAlinden, that must have happened, mustn't it?
14 A. It must have.
15
16 Q. Weren't you interested to know what Father Lucas said
17 to McAlinden or did or found out, or any of those matters?
18 A. No, I left that to him.
19
20 Q. So you took no interest in the process that
21 Father Lucas had engaged in, if he engaged in any?
22 A. That was his task, as far as I was concerned.
23
24 Q. Did you understand Father Lucas to be charged with the
25 responsibility of reporting back personally to [AJ] about
26 what action was to be taken, if any, regarding McAlinden?
27 A. I thought that would be natural dialogue.
28
29 Q. But you say you were fulfilling a type of pastoral
30 role with [AJ]?
31 A. I was.
32
33 Q. Walking with her?
34 A. Yes.
35
36 Q. And to walk with her, you needed to address her
37 concerns?
38 A. Yes.
39
40 Q. One of her significant concerns, if not the most
41 significant one, was that she wanted McAlinden not to
42 access any more children?
43 A. That's true.
44
45 Q. So didn't you need to find out what was done in
46 relation to McAlinden vis-a-vis Father Lucas?
47 A. But I didn't go down that track.

1
2 Q. So you didn't find out?
3 A. No.
4
5 Q. Not interested?
6 A. Once again, to me, it was his - that was his role.
7
8 Q. In conversations, if any, that you had with [AJ], did
9 she tell you what Father Lucas had told her? Don't tell me
10 about the content of the conversation, but did she at any
11 time tell you that she had had conversations with
12 Father Lucas about McAlinden?
13 A. I've got no recollection of that.
14
15 Q. Did you become aware of allegations that McAlinden had
16 made admissions to Father Lucas during some exchange
17 between Father Lucas and McAlinden?
18 A. Once again, I couldn't say "yes" or "no".
19
20 Q. Are you aware of that now, that there are assertions,
21 allegations --
22 A. Yes.
23
24 Q. -- that McAlinden admitted certain inappropriate
25 conduct with children to Father Lucas? You know that now?
26 A. You're telling me now.
27
28 Q. Is now me uttering those words the first time you've
29 heard of that assertion?
30 A. I've got no - I've got no actual memory of that event.
31
32 Q. "That event" being what?
33 A. Telling - making that reference.
34
35 Q. Making what reference?
36 A. That he had abused - you know, that --
37
38 Q. Have you lost my question?
39 A. I've lost your question.
40
41 Q. All right. You're aware now, aren't you, that it's
42 alleged that McAlinden made admissions to Father Lucas?
43 You know that now?
44 A. I know that now.
45
46 Q. And you knew that before today, didn't you?
47 A. Because of the correspondence.

1
2 Q. And what correspondence is that?
3 A. Of what has unfolded through - through these letters
4 that I have.
5
6 Q. By "these letters", you're pointing at the bundle of
7 letters you have in the witness box with you?
8 A. Yes.
9
10 Q. You've become aware that some of those letters refer
11 to admissions having been made to Father Lucas?
12 A. Yes, that's true.
13
14 Q. You became aware that admissions had been made to
15 Father Lucas way back in 1994, didn't you?
16 A. Yes.
17
18 Q. And in 1993?
19 A. 1993 - that's when it first came out.
20
21 Q. Yes, but when you say "it", you were made aware in
22 1993, weren't you, that admissions had allegedly been made
23 by McAlinden to Father Lucas, weren't you?
24 A. My recollection - yes, Leo - Bishop Leo told me that,
25 yes.
26
27 Q. Bishop Leo told you --
28 A. That's right.
29
30 Q. -- that McAlinden had made admissions to Father Lucas?
31 A. Yes, that's right.
32
33 Q. And the admissions were that he had interfered with
34 a number of children; is that the position?
35 A. Yes.
36
37 Q. And did you make a note about that anywhere?
38 A. No.
39
40 Q. Do you know whether Bishop Clarke made a note about
41 it, in that you saw it?
42 A. No.
43
44 Q. Do you know whether Father Lucas made notes about
45 these admissions?
46 A. I wouldn't know.
47

1 Q. I beg your pardon?
2 A. I wouldn't know.
3
4 Q. Didn't you want to find out whether they had been
5 noted so that you would have a record of this important
6 matter?
7 A. Once again, I go back that he was the team with Leo.
8
9 Q. Have a look at the document behind tab 229, and you
10 see that's an insurance proposal for what's referred to as
11 "special issues liability insurance". Do you see that?
12 A. Right.
13
14 Q. Now, do you know what "special issues" were in 1993?
15 A. The special issue was sexual abuse.
16
17 Q. And do you know who came up with that title "special
18 issues"?
19 A. I believe it would have been the Catholic Church
20 insurer - oh, no, it was probably the bishops.
21
22 Q. When did you become aware of this special title for
23 sexual abuse of children?
24 A. My memory was that this came into operation in the
25 late 1990s.
26
27 Q. But you see, just have a look at the second page of
28 this document. This is 1993. Do you see that?
29 A. Yes.
30
31 Q. Signed by the bishop; do you agree that's signed by
32 the bishop?
33 A. I do, yes.
34
35 Q. Therefore, it's obvious, isn't it, that the term
36 "special issues" was in use at least in 1993?
37 A. Yes.
38
39 Q. Have a look at the text under the heading
40 "Disclosure":
41
42 *One of my priests working in another*
43 *Diocese was tried for a case alleged to*
44 *have taken place when he served there some*
45 *time ago.*
46
47 Do you see that?

1 A. Yes.
2
3 Q. It continues:
4
5 *He was found not guilty, however a number*
6 *of people in this Diocese came to know of*
7 *this case & were incensed that he was*
8 *exonerated.*
9
10 I just want to ask you whether you discussed with
11 Bishop Clarke the assertion that McAlinden was found not
12 guilty of a certain crime in another place? Did you have
13 a discussion with Bishop Clarke about that?
14 A. The bishop told me that he had been exonerated.
15
16 Q. This part of the document that appears to have been
17 prepared by Bishop Clarke refers to.
18
19 *... a number of people in this Diocese came*
20 *to know of this case & were incensed that*
21 *he was exonerated.*
22
23 Did you know a number of people who fit into that category
24 who were incensed that he was exonerated?
25 A. I don't know those people.
26
27 Q. Did anyone say to you that they were incensed or angry
28 that --
29 A. No.
30
31 Q. No?
32 A. No.
33
34 Q. It goes on:
35
36 *They complained that they have been victims*
37 *many years back & their complaints were*
38 *referred to Fr Brian Lucas.*
39
40 Do you see that?
41 A. Yes.
42
43 Q. Do you know who the bishop is referring to here?
44 A. No.
45
46 Q. Then he goes on to say:
47

1 *He handled this case with great dexterity &*
2 *extracted a confession from the priest that*
3 *he had offended.*

4
5 Do you see that?

6 A. Yes.

7
8 Q. You became aware from the conversation or
9 conversations with Bishop Clarke that that was the
10 position, that Father Lucas had extracted a confession from
11 the priest that he had offended?

12 A. Yes.

13
14 Q.

15 *He has returned to Ireland & was told that*
16 *should he return here these angry women*
17 *will pursue him.*

18
19 Do you see that?

20 A. Yes.

21
22 Q. Did you have any conversation with Bishop Clarke where
23 Bishop Clarke told you that there was this attitude amongst
24 some women that they were angry and will pursue him if he
25 returns to the diocese?

26 A. The bishop told me that, yes.

27
28 Q. He did tell you that - that there were angry women who
29 would pursue McAlinden?

30 A. Yes.

31
32 Q. When you say Bishop Clarke told you that, did he tell
33 you in what way they would pursue him, McAlinden?

34 A. No, no.

35
36 Q. Did Bishop Clarke ever discuss with you the need to
37 disclose to insurance companies when there have been
38 allegations of sexual abuse?

39 A. No. He handled all that.

40
41 Q. Did you attend as vicar general any conferences or
42 gatherings where the subject matter of child sexual abuse
43 was raised?

44 A. At our clergy conference we had, the bishop would
45 bring issues in from time to time.

46
47 Q. Was one of those issues allegations that a priest or

1 priests of the diocese had sexually abused children?
2 A. He would only do that in the context of the deans
3 meetings.

4
5 Q. The deans meeting was attended by particular senior
6 priests of the diocese?

7 A. Exactly.

8
9 Q. You're nodding yes?

10 A. Yes.

11
12 Q. Have a look at the document behind tab 233. You see,
13 Monsignor Hart, that's a deans meeting dated 4 May 1994 at
14 which you were present?

15 A. I was.

16
17 Q. Do you see in the second-last paragraph on the first
18 page, this is recorded:

19
20 *The Bishop then spoke at length to the*
21 *Deans on the Special Issues Matters.*

22
23 A. Yes.

24
25 Q. Are you able to recollect now - don't give any names -
26 whether the special issues were related to sexual abuse of
27 children?

28 A. If this is in the context of the insurance policy.

29
30 Q. So it was generally?

31 A. Generally.

32
33 Q. Talking about the issue generally?

34 A. Generally, yes.

35
36 Q. Not specific to any particular priest?

37 A. That's right.

38
39 Q. In the next paragraph:

40
41 *It was recommended that the individual*
42 *Deans see the Bishop privately, but that it*
43 *would be a good idea to invite*
44 *Fr Brian Lucas and John Usher to speak to*
45 *the clergy again in conference.*

46
47 Do you remember, prior to this, Father Lucas and John Usher

1 coming to speak to the priests of the diocese about these
2 issues?
3 A. We had a clergy conference, yes.
4
5 Q. That was prior to May 1994?
6 A. Yes.
7
8 Q. Do you recall whether any specifics regarding
9 McAlinden were discussed at that conference?
10 A. No. I wouldn't have any recollection.
11
12 Q. They may have been; it may have been, but you don't
13 remember?
14 A. It may have been. May have been.
15
16 Q. Did you have explained to you at or prior to this time
17 what the role of Father Brian Lucas and John Usher was in
18 terms of special issues matters?
19 A. They were considered - because they belonged to the
20 archdiocese of Sydney, they were considered people who were
21 informed in how to go about these things, so various
22 bishops would invite them into their diocese to inform
23 them, inform the clergy.
24
25 Q. Do you recall attending a meeting at which
26 Father Lucas and/or Monsignor Usher were present, together
27 with [AL]? Have a look at the pseudonym list if you need
28 a prompt.
29 A. No, I know who [AL] is.
30
31 Q. Do you remember that?
32 A. Are you saying that I was present at the meeting?
33 I can't remember.
34
35 Q. Do you recall having a meeting yourself with [AL] and
36 Sister Redgrove at which her abuse was discussed?
37 A. Yes.
38
39 Q. Do you have any idea when that was?
40 A. That was in 1993.
41
42 Q. Do you know where the meeting occurred? Do you
43 recollect where the meeting occurred?
44 A. That meeting occurred at the bishop's house.
45
46 Q. Are you confident that Sister Redgrove was present?
47 A. Yes.

1
2 Q. You and [AL]?
3 A. Yes.
4
5 Q. No-one else?
6 A. Yes.
7
8 Q. No-one else, okay. Did you take any documentation of
9 that meeting?
10 A. No.
11
12 Q. What was the purpose of that meeting?
13 A. The purpose of that meeting was, once again, to inform
14 the bishop of this, of her complaints.
15
16 Q. The bishop wasn't present at the meeting?
17 A. No.
18
19 Q. Did you inform the bishop or did someone else or how
20 did it happen?
21 A. I informed the bishop.
22
23 MS LONERGAN: I tender the deans meeting minutes of 4 May
24 1994.
25
26 THE COMMISSIONER: Yes. That will be exhibit 131. That
27 is tab 233.
28
29 **EXHIBIT #131 DEANS MEETING MINUTES 4/05/1994 (TAB 233)**
30
31 MS LONERGAN: Q. Monsignor, do you remember anything
32 about any arrangements for [AL] to meet with Father Lucas
33 or Father Usher or Monsignor Usher relating to her
34 allegations about McAlinden?
35 A. I have no recollection of that, no.
36
37 Q. If any such meeting occurred, you didn't arrange it,
38 can we take it from your evidence?
39 A. Yes.
40
41 Q. And if any such meeting occurred, you weren't present
42 at it?
43 A. No.
44
45 Q. You're confident about that?
46 A. Yes.
47

1 Q. Did you become aware at some time in 1994 that
2 McAlinden was working in the Philippines?
3 A. That was 1995, wasn't it? That was 1995.
4
5 Q. Did you become aware in 1995 that McAlinden was
6 working in the Philippines?
7 A. I did.
8
9 Q. Did you have some discussions with Bishop Clarke about
10 that?
11 A. Bishop Clarke was away.
12
13 Q. Bishop Clarke was away all of 1995?
14 A. No. In that period of time.
15
16 Q. So when the issue came up, Bishop Clarke was away; is
17 that the position?
18 A. Well, my recollection is that - what's her name? -
19 [AL] came to see me, and I think her sister, I think, and
20 they said that they came to tell me that they had
21 discovered that Denis was working up in the Philippines.
22
23 MS LONERGAN: Could the witness be shown the original 1995
24 diary as well as a photocopy of extracts from the 1995
25 diary.
26
27 THE WITNESS: Thank you.
28
29 MS LONERGAN: Q. If you wouldn't mind turning to the
30 week of 19 March.
31 A. Yes.
32
33 Q. Just look at the original, and do you see on
34 the right-hand side - don't read the name out - there is
35 "Sister Redgrove/[AL]"?
36 A. Yes.
37
38 Q. Does that help you pinpoint when you were told about
39 McAlinden working in the Philippines?
40 A. Yes.
41
42 Q. Does that entry denote when you were made aware of
43 that matter - McAlinden working in the Philippines?
44 A. Yes, yes.
45
46 Q. You hadn't become aware just from general conduct in
47 the diocese?

1 A. No, no.
2
3 Q. You were vicar general then, were you, or not?
4 A. 1995 - yes.
5
6 Q. So you hadn't become aware of where he was as part of
7 your role as vicar general?
8 A. No. They came to tell me.
9
10 Q. Do you recall your discussion with [AL] about that
11 issue?
12 A. I have no recollection of telling [AL].
13
14 Q. I beg your pardon?
15 A. Sorry, did I tell [A --
16
17 Q. Just have a look at the photocopy of that same diary
18 entry on your left with the black cover.
19 A. Oh, this one.
20
21 Q. Just turn up the same date that you have been looking
22 at in your original diary.
23 A. Yes.
24
25 Q. Do you see there's the meeting with Sister Redgrove,
26 or "Sr Redgrove/[AL]"?
27 A. Yes.
28
29 Q. You know who [AL] is?
30 A. I do.
31
32 Q. Do you recall what [AL] told you in that meeting in
33 March 1995?
34 A. I believe it was about - or am I getting confused
35 with - is this --
36
37 Q. Just do the best you can memory-wise.
38 A. My memory, then, is that they came to tell me he was
39 in the Philippines - top of the Philippines and we needed
40 to get him out.
41
42 Q. Are you able to recollect now when Bishop Clarke went
43 on leave in 1995, that placed you in the position of
44 needing to deal with matters in his absence?
45 A. I think I just told the bishop - he was home, to my
46 knowledge.
47

1 Q. At this stage, March 1995, you think you told the
2 bishop these matters that had been raised with you by [AL]?
3 A. Yes.
4
5 Q. Do you recall what [AL] wanted the diocese to do, if
6 anything, about her information that McAlinden was working
7 in the Philippines?
8 A. Get him out.
9
10 Q. And did you think that was a reasonable request?
11 A. My word.
12
13 Q. So you spoke to the bishop, can we assume, about that?
14 A. I think - my memory is the bishop was away and I rang
15 the apostolic nuncio.
16
17 Q. Just looking at your 1995 diary extract, would you
18 turn to the fourth page of that. Do you see there is
19 a series of telephone numbers and addresses and there are
20 some phone numbers in San Pablo and a post office box, and
21 the name "Bishop Pedro Bantigue"?
22 A. Yes.
23
24 Q. Are you able to say whether that note there is in your
25 handwriting?
26 A. It is.
27
28 Q. Does that prompt any recollection as to when you did
29 things or who you contacted in the Philippines about the
30 matter, if you did, in 1995?
31 A. No, I rang the apostolic nuncio and then I asked the
32 apostolic nuncio to ring his counterpart who looked after
33 the Philippines.
34
35 Q. Why did you do that?
36 A. Because the girls said that we've got to get him out.
37 They'd discovered that's where he was hiding, and I said,
38 "We've got to get him out."
39
40 Q. If you could turn to tab 250, which is also
41 exhibit 73, do you see that's a letter from you to
42 Reverend Castillo? Do you see that?
43 A. Yes.
44
45 Q. Do you recall writing that letter?
46 A. I do.
47

1 Q. In that letter, you have noted that you've had
2 a consultation with Bishop Malone?
3 A. Yes, he was the coadjutor.
4
5 Q. And that you wanted to advise, in this case, the
6 rector and parish priest at San Pablo of complaints against
7 McAlinden?
8 A. Yes.
9
10 Q. And you wanted to tell him that his faculties had been
11 removed?
12 A. Yes.
13
14 Q. And then you make this comment:
15
16 *Failing this procedure those who have*
17 *lodged complaints intend to consider*
18 *instituting criminal charges and*
19 *compensation charges against the Church.*
20
21 Do you see that?
22 A. Yes.
23
24 Q. What was that a reference to in terms of complainant
25 or other information you had?
26 A. People were getting rather cranky about it.
27
28 Q. What people?
29 A. Who heard that he was hiding, once again.
30
31 Q. Was that [AL], or who was it? Who were these people?
32 A. Once again, I couldn't honestly say whether it was
33 [AL].
34
35 Q. But it was more than one person, was it?
36 A. Oh, yes.
37
38 Q. Do you see that this letter isn't addressed to the
39 apostolic nuncio, is it? It's addressed to a particular
40 priest in San Pablo?
41 A. Yes, yes.
42
43 Q. Are you able to say now why you addressed it to that
44 particular person?
45 A. Because the apostolic nuncio got in touch with his
46 counterpart and Bishop Michael also got into this
47 conversation, too, if I remember.

1
2 Q. Don't tell us about that unless you were present
3 during such conversation.
4 A. Okay.
5
6 Q. Should we understand your second-last paragraph to be
7 referring to a request that the diocese of San Pablo remove
8 McAlinden's faculties as well?
9 A. Send him back.
10
11 Q. Send him back, not let him practise as a priest?
12 A. That's right.
13
14 Q. You see you've said:
15
16 *Failing this procedure those who have*
17 *lodged complaints intend to consider*
18 *instituting criminal charges and*
19 *compensation charges against the Church.*
20
21 Did someone tell you that they wanted to go to the police
22 about McAlinden that prompted you to write this in this
23 letter?
24 A. All I know is that they were angry. That was my
25 expression, I suppose.
26
27 Q. You wouldn't have said that people were considering
28 instituting criminal charges --
29 A. Oh, no.
30
31 Q. -- if they weren't, would you?
32 A. No.
33
34 Q. Because that would be a lie if it wasn't true?
35 A. No. They were cranky and angry.
36
37 Q. We're not talking about cranky and angry. You haven't
38 said in your letter that they were cranky and angry.
39 You've said that they were intending to consider
40 instituting criminal charges. You put your hands out as if
41 to show a type of shrug. What is it that you were
42 referring to there?
43 A. I believe that they - because the system, the way that
44 we were dealing with it, had been so long, they were
45 getting frustrated.
46
47 Q. But that's not what you say. You say that they were

1 intending --
2 A. Yes, but I'm putting it in terms of --
3
4 Q. Stop, Monsignor Hart. You have to let me finish the
5 question.
6
7 MR CAVANAGH: Commissioner, with respect, I think in
8 fairness Monsignor Hart was answering the question and
9 another question went on top of it, so --
10
11 MS LONERGAN: I don't agree with that.
12
13 Q. I will ask you, Monsignor Hart, to let me finish a
14 question and I'll let you finish an answer and we'll have
15 a deal.
16 A. Thank you.
17
18 Q. You don't say in this letter that people were angry,
19 do you?
20 A. No.
21
22 Q. What you say is that people were considering
23 instituting criminal charges?
24 A. Yes.
25
26 Q. Was that the position or not, in June 1995?
27 A. I believe that was their - I don't want to use my word
28 "frustration" --
29
30 MR GYLES: The question should be "failing this
31 procedure", with great respect.
32
33 MS LONERGAN: Q. You were answering my question,
34 Monsignor Hart. What did you start to say before the
35 interruption?
36
37 MR GYLES: It is an objection to the question.
38
39 MS LONERGAN: I'm sorry, I didn't understand whether it
40 was an objection or a comment.
41
42 MR GYLES: It's an objection and it is objectionable
43 because it is part of what is being put. What is being put
44 to this witness is what he intended to mean. And what he
45 intended to mean needs to be read in the context of the
46 whole sentence as to what his intention was. It is an
47 objection and I object to the question.

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MS LONERGAN: Thank you for that clarification, Mr Gyles.

Q. You say in that paragraph:

Failing this procedure those who have lodged complaints intend to consider instituting criminal charges and compensation charges against the Church.

Do you see that?

A. Yes.

Q. Was that the position at the time you wrote the letter?

A. I believe that's what they were moving towards.

Q. You say "they", you believed that's what "they" were moving towards?

A. A number of people. A number of people.

Q. Who, and use the pseudonym list, please?

A. I couldn't remember who. There was a number of people.

Q. And they were a number of people who had been victims of McAlinden?

A. Yes.

Q. They're people that you had spoken to personally or not?

A. No.

Q. Some of them?

A. I've only dealt with the ones we've mentioned.

Q. So the ones you've mentioned - did any of those people tell you that, failing the procedure, that is the removal of faculties, they intended to consider instituting criminal charges and compensation charges?

MR GYLES: I object to the question. "Failing the procedure", when one reads the context of the question, is not necessarily the removal of faculties. It could be the return to England, as to the procedure.

MS LONERGAN: Q. Could I ask you some more questions

1 about your letter. We would hate to misunderstand what you
2 meant.

3 A. Sure.

4

5 Q. In the second paragraph, you state a certain plan, if
6 I can call it that, after consultation with Bishop Michael
7 Malone. Do you see that?

8 A. I do.

9

10 Q. The plan was that Bishop Michael and/or you required:
11 6 tab 250

12

13 *For the benefit of those who have lodged*
14 *their complaints against Father Denis*
15 *McAlinden a letter indicating that your*
16 *diocese has removed his faculties and that*
17 *he will return to England.*

18

19 Do you see that?

20 A. Yes.

21

22 Q. Is it your understanding that Father Castillo would
23 have had the power to demand that McAlinden return to
24 England?

25 A. No.

26

27 Q. Is it your understanding that Father Castillo may well
28 have had the power, as a representative of the diocese, to
29 organise for removal of McAlinden's faculties?

30 A. Yes.

31

32 Q. So is the procedure that you're talking about in your
33 letter a reference to the removal of McAlinden's faculties
34 by the San Pablo diocese?

35 A. The diocese.

36

37 Q. "Failing this procedure" - and I don't want to make
38 any mistake about it, the procedure you're talking about is
39 the removal of faculties by the diocese of San Pablo; is
40 that right?

41 A. Yes.

42

43 Q. So:

44

45 *Failing this procedure those who have*
46 *lodged complaints intend to consider*
47 *instituting criminal charges ...*

1
2 Et cetera. Do you see that?
3 A. Yes.
4
5 Q. Did either of the people that you have referred to
6 today say to you that if McAlinden's faculties weren't
7 removed, they intended to consider instituting criminal
8 charges and compensation charges against the church, or
9 either of those types of charges?
10 A. In all honesty, I couldn't remember.
11
12 Q. They may have?
13 A. They may have.
14
15 Q. One of them may have, both of them may have?
16 A. They may have.
17
18 Q. Did you know about other people who had the same
19 attitude that led to you writing that particular paragraph,
20 the second-last paragraph, of your letter?
21
22 MR GYLES: I object. What the witness can tell you,
23 Commissioner, is what he was told by people.
24
25 THE COMMISSIONER: Yes.
26
27 MS LONERGAN: That's why I said, "Did you know about
28 people?" I can examine further the basis for the
29 knowledge. I'm trying not to ask double-barrelled
30 questions, if I can avoid it.
31
32 THE COMMISSIONER: Yes.
33
34 MS LONERGAN: Q. Did you know about any other people
35 that fitted that particular position that you have --
36 A. I couldn't name individuals.
37
38 Q. No, I'm not asking you to, but did you know about any
39 other people than the two ladies you had already met who
40 had that attitude that you've written about in your letter
41 there in the second-last paragraph?
42 A. I'd have to say no.
43
44 Q. Did anybody tell you that there were other people who
45 had that particular attitude you've set out in the
46 second-last paragraph of your letter? And please say if
47 you don't know or don't recollect.

1 A. I don't recollect it.

2

3 MS LONERGAN: Is that a convenient time, Commissioner?

4

5 THE COMMISSIONER: Yes, we will adjourn until 2 o'clock.

6

7 **LUNCHEON ADJOURNMENT**

8

9 MS LONERGAN: Commissioner, before we resume
10 Monsignor Hart's evidence, there has been a request from
11 the media for copies of exhibits 127 to 131 inclusive. So
12 if there is any objection to the release of those, could
13 those at the Bar table notify those who assist you by 4.15.

14

15 THE COMMISSIONER: Thank you, Ms Lonergan.

16

17 MS LONERGAN: Q. Monsignor, you've had an opportunity to
18 read the letter behind tab 59?

19

20 A. Thank you. Yes.

21

22 Q. That letter is from Monsignor Cotter to Bishop Clarke?

23

24 A. Yes.

25

26 Q. It's dated May 1976?

27

28 A. '76?

29

30 Q. 1976.

31

32 A. Yes.

33

34 Q. Have you read that letter before today?

35

36 A. No.

37

38 Q. The contents of the letter - are any of the matters
39 referred to in that letter familiar to you, in that
40 Bishop Clarke had told you about the matters referred to in
41 the letter before?

42

43 A. Once again, there wasn't the - what would I say? - the
44 explicit details that were in this. He just brushed across
45 them.

46

47 Q. So is it your evidence that Bishop Clarke brushed
across these types of matters regarding McAlinden in
a conversation with you at some point while Bishop Leo
Clarke was still the bishop?

48

49 A. He acknowledged there were problems, but he didn't go
into explicit details.

50

1 Q. He acknowledged there were problems as far back as
2 1976?
3 A. Yes.
4
5 Q. But he didn't go into the sort of detail that's in
6 that letter?
7 A. No, no.
8
9 Q. In terms of outlining what happened back in 1976?
10 A. No.
11
12 Q. You can fold up that particular volume. That's all
13 I'm going to ask you about that letter. Would you go back
14 to the volume you had open before, which is volume 3, and
15 behind tab 250. I was asking you some questions about that
16 before the luncheon adjournment. That's your letter of
17 20 June 1995, which is exhibit 73.
18 A. Yes.
19
20 Q. You see the letter refers to you having written that
21 letter in the absence of Bishop Leo Clarke, who was on his
22 annual holiday?
23 A. Yes.
24
25 Q. Are you able to say from looking at your 1995 diary
26 that should be in the witness box with you what period the
27 bishop was away that year?
28 A. 1995.
29
30 Q. So your letter is 20 June, and you seem to have
31 written it at a time Bishop Clarke was absent. Does that
32 help you find the period in which Bishop Clarke was absent?
33 A. Give me time just to flick through these pages.
34
35 Q. If you're not able to work it out from your diary,
36 that's not a problem. Just say so, if it's not evident
37 from your diary. Monsignor, we might just leave that
38 because I can still follow this line of questioning without
39 that particular information.
40 A. Okay, good.
41
42 Q. Do you see in your letter that appears behind tab 250
43 that you've written in response to - or you at least state
44 that you are in receipt of:
45
46 *... your letter to Bishop Clarke concerning*
47 *Denis McA Linden.*

1
2 "Your letter" being the letter of Father Castillo. Do you
3 see that?
4 A. Yes.
5
6 Q. Your usual practice would have been, wouldn't it, to
7 read the letter that you're responding to?
8 A. Yes.
9
10 Q. So if you turn back to tab 246, do you see there's
11 a letter on the letterhead of the parish of St Paul the
12 First Hermit from San Pablo?
13 A. Yes.
14
15 Q. Can we take it that you would have read that letter so
16 you knew what you were responding to?
17 A. So this was written by Castillo, yes, to the bishop.
18
19 Q. You're stating in your letter:
20
21 *... I write to advise that I am in receipt*
22 *of your letter to him concerning*
23 *Father Denis McAlinden.*
24
25 Do you see that?
26 A. Yes, okay.
27
28 Q. That's behind tab 250. Can we take it that the letter
29 behind tab 246, being a letter from Father Castillo about
30 McAlinden, directed to Bishop Clarke, is the letter you
31 were replying to?
32 A. Yes.
33
34 Q. And you would have read that letter at the time?
35 A. Yes.
36
37 Q. Before you wrote your reply of 20 June 1995?
38 A. Yes.
39
40 Q. You see that that letter is referring to replying to
41 a letter of Bishop Clarke having been sent on 10 May 1995?
42 A. 10 May?
43
44 Q. Yes, I just want you to look at the document behind
45 tab 246, and do you see in the first paragraph it says:
46
47 *... I am sending this letter to your*

1 *Excellency in response to the one you sent*
2 *dated May 10, 1995.*

3
4 Do you see that?

5 A. Yes.

6
7 Q. So you would have read the letter of 10 May so you
8 knew what this was all about, wouldn't you?

9 A. Yes.

10
11 Q. Have a look at the letter behind tab 243, and just
12 keep your hand at the letter behind tab 246. Now, you see
13 the letter of 10 May 1995 is one that was sent by
14 Bishop Clarke to Bishop Bantigue?

15 A. Yes.

16
17 Q. Your evidence is that you would have read that letter
18 so that you could understand the train of correspondence?

19 A. Yes.

20
21 Q. Do you see in paragraph 3 there is a mention that:

22
23 *... serious allegations were made against*
24 *Father Denis. In being confronted by these*
25 *accusations by a priest deputed by the*
26 *Australian Episcopal Conference,*
27 *Father Denis admitted to the accusations.*

28
29 A. Yes.

30
31 Q. So can we take it that you would have read that letter
32 in or about June 1995?

33 A. It's possible.

34
35 Q. You've given evidence to the effect that you were
36 likely to have read the chain of correspondence so that you
37 could partake in it in the way that you have with the
38 letter that you wrote behind tab 250.

39 A. Yes.

40
41 Q. So it's likely you read this letter, isn't it?

42 A. It's likely.

43
44 Q. So you were aware, at least, in June 1995 that there
45 had been admissions made by McAlinden to a priest deputed
46 by the Australian Episcopal Conference?

47 A. Yes.

1
2 Q. From having read this letter?
3 A. Yes.
4
5 Q. Are you able to say whether you assisted in the
6 drafting of that letter of 10 May 1995?
7 A. Of 10 May?
8
9 Q. Yes. It is under the hand of Bishop Clarke?
10 A. No, no. Bishop Clarke always wrote his own letters.
11
12 Q. Did you on occasion, however, help him with drafting
13 correspondence or not?
14 A. No.
15
16 Q. He liked to do that himself?
17 A. He liked to do it himself.
18
19 Q. If you could have a look at the letter behind tab 244,
20 do you see that's a letter under Bishop Clarke's hand to
21 the apostolic pro nuncio in Manuka?
22 A. Yes.
23
24 Q. Did you contact that person on behalf of Bishop Clarke
25 at around this time about McAlinden?
26 A. Not on behalf of Bishop Clarke.
27
28 Q. Did you contact that person?
29 A. I contacted Brambilla.
30
31 Q. And why?
32 A. Because the women had said they want him out.
33
34 Q. They want him out of the Philippines?
35 A. Yes.
36
37 Q. Just read that letter to yourself, first of all, the
38 letter of 23 May 1995.
39 A. Yes.
40
41 Q. You've finished it already. All right. Did you
42 assist with drafting any part of this letter?
43 A. No.
44
45 Q. Did you give Bishop Clarke any information that is
46 used in this letter?
47 A. Only that I had told him about, previously, [AL] and

1 those other people.

2

3 Q. So on the second page, do you see in the fourth
4 paragraph.

5

6 *... [AL] has come forward concerned because*
7 *she learned that he is working in the*
8 *Diocese of San Pablo.*

9

10 A. Yes.

11

12 Q. That's information you gave to Bishop Clarke?

13 A. Yes. And also Bishop Michael.

14

15 Q. And:

16

17 *She informed us that [AL], [AK], and [AN]*
18 *and [AV] (reads)... were also victims of*
19 *Father Denis. He denies all this.*

20

21 So did you give that second part of the information to him?

22 A. No.

23

24 Q. I'm sorry if I've already asked you this question. Is
25 it your evidence that Bishop Leo Clarke told you that
26 McAlinden had admitted to Father Lucas that certain
27 allegations about having sexually abused children were
28 true?

29 A. My memory is yes.

30

31 Q. So if you read that in this series of correspondence
32 with the clergy in the Philippines, you wouldn't have been
33 surprised, because you already knew?

34 A. No, no.

35

36 Q. I want you to turn back to tab 243, and do you see in
37 the third paragraph - I know it's Bishop Clarke's letter,
38 but I want to ask you a question about a date that's given
39 in that letter - it talks about:

40

41 *In 1994 serious allegations were made*
42 *against Father Denis.*

43

44 Do you see that?

45 A. Yes.

46

47 Q. And it's followed by:

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In being confronted by these accusations by a priest deputed by the Australian Episcopal Conference, Father Denis admitted to the accusations.

Do you know what allegations were made in 1994?

A. No.

Q. Are you able to say why the date 1994 appears there in Bishop Clarke's letter?

A. No.

Q. Would you expect, having been the vicar general in 1994 to Bishop Clarke, to have known if serious allegations were made in 1994 about McAlinden?

A. Once again, I have no knowledge of that, regarding the intention of the bishop.

Q. Based on what you know in terms of people having come forward in 1993 to the diocese about allegations that McAlinden had sexually abused them, is it possible that's a typographical error in saying "1994" there, or you're not able to say?

A. I'm not able to say, really.

Q. Turn to tab 256, please. That's a deans meeting of 2 August 1995, and the part I'm directing your attention to is under the heading "Correspondence" on page 1 at point 2.

A. Yes.

Q. Can I ask you a question about the deans. Was that a group of senior priests who assisted the bishop with making decisions about matters affecting the diocese?

A. Correct.

Q. And that includes management of clergy placements?

A. Correct.

Q. Do you see that there's mention there about correspondence with Bishop Bantigue in the Philippines?

A. Yes.

Q. And that there was discussion.

... the Bishop indicating that Father Denis would arrive back in Australia on

1 5th August.

2
3 Do you see that?

4 A. Yes.

5
6 Q. Do you remember this deans meeting?

7 A. Not really.

8
9 Q. Do you remember who usually took the minutes of these
10 meetings?

11 A. I did.

12
13 Q. You did?

14 A. Mmm.

15
16 Q. With the next paragraph, next to number 2:

17 *It was resolved that we move towards a ...*

18
19
20 And then there's a word crossed out, "legislation", and
21 there's some sort of sign over the top of it. It could be
22 a letter or a scrawl:

23 *... procedure since Father Denis would not
24 confirm to the restriction placed upon him
25 by Bishop Leo.*

26
27
28 Now, do you know what that was about?

29 A. I would presume it was we should be moving towards
30 laicisation.

31
32 Q. Why do you say that that's what you presume?

33 A. Because I think that's the conclusion that
34 Bishop Malone and also Clarke had decided to do.

35
36 Q. Is it your recollection that that was what was
37 discussed at the deans meeting or not?

38 A. I believe that was the content.

39
40 Q. So are you able to assist with what the word
41 "legislation" with a line through it and the sign above the
42 top of it means, or not?

43 A. I believe that it was crossed out because it was
44 "laicisation".

45
46 Q. Did you cross it out?

47 A. It doesn't look like me.

1
2 Q. Are you able to say - this might sound very bizarre -
3 who crossed it out by the way they've drawn the line
4 through the word and the little letter or sign above it?
5 A. The only - the bishop always then checked the minutes,
6 and he was always, if you like, paranoid about spelling.
7
8 Q. Were you part of any arrangement to move McAlinden
9 towards laicisation?
10 A. No. That was Malone.
11
12 Q. All right, don't worry about who it was. I just want
13 to know if you were any part of it. Are you able to say
14 when the laicisation procedure was commenced?
15 A. There was a letter floating around from our canon
16 lawyer.
17
18 Q. And that, in your mind, dates it to a certain time?
19 A. Mmm, 1995.
20
21 Q. If I suggest to you it was October 1995, does that
22 accord with your recollection?
23 A. That sounds right.
24
25 Q. Are you able to say where that procedure, or the
26 letter that you've talked about, occurs in time in relation
27 to when Vincent Ryan was arrested? Was it before or after
28 or on the same day, are you able to say?
29 A. I couldn't say. I couldn't say whether it was the
30 same day.
31
32 Q. You couldn't say --
33 A. Whether it was the same day.
34
35 Q. Are you able to say whether it was before or after?
36 A. No.
37
38 Q. Did you know that Vincent Ryan was going to be
39 arrested before he was arrested?
40 A. No.
41
42 Q. Did you discuss with Bishop Clarke any matters
43 regarding Vincent Ryan having been accused of sexually
44 abusing boys prior to Vincent Ryan's arrest?
45 A. No.
46
47 Q. Have a look at the letter behind tab 264. Monsignor,

1 did you have a vendetta against McAlinden?
2 A. No.
3
4 Q. You've seen this letter behind tab 264 before, have
5 you?
6 A. Yes.
7
8 Q. Do you see in the second paragraph there's a reference
9 to certain actions being a continuation of your vendetta?
10 A. Yes.
11
12 Q. And that you attempted to anticipate laicisation of
13 McAlinden a few years ago when you wrote to him, addressing
14 him as "Mr D McAlinden". Now, did you do that, write to
15 him as "Mr McAlinden"?
16 A. I don't believe I did put "Mr". I wouldn't want to
17 insult him.
18
19 Q. I'm sorry if I've already asked you this. Had you
20 read this letter before today?
21 A. I saw it I think in - did I see it in Sydney?
22
23 Q. You think you may have seen it in Sydney as part of
24 these proceedings?
25 A. I did, yes.
26
27 Q. Before that?
28 A. No.
29
30 Q. Did Bishop Clarke raise with you that McAlinden had
31 had let him know that it was his impression that you had
32 a vendetta against McAlinden?
33 A. No.
34
35 Q. Monsignor, you gave some evidence about contact with
36 the apostolic pro nuncio?
37 A. Yes.
38
39 Q. That was the one in Canberra that you contacted, was
40 it?
41 A. Yes, Brambilla.
42
43 Q. You were asking that person to get in contact with his
44 opposite number in the Philippines; was that the position?
45 A. Correct.
46
47 Q. By what means did you contact the apostolic pro

1 nuncio?

2 A. I rang him.

3

4 Q. What did you say to him?

5 A. I explained the situation that we - that I didn't know
6 or the diocese didn't know who was the apostolic nuncio in
7 New Guinea --

8

9 Q. In the Philippines or New Guinea?

10 A. In the Philippines, sorry, the Philippines, and if he
11 could then, that apostolic nuncio, talk to the bishop of
12 the region and explain the situation.

13

14 Q. You asked that that apostolic pro nuncio do that?

15 A. Yes.

16

17 Q. And did you take a note of the conversation?

18 A. Bishop Michael and I were doing it together in some
19 way, and I believe that Bishop Michael wrote a letter.

20

21 Q. So you made a call?

22 A. I made the call.

23

24 Q. By yourself, without Bishop Malone?

25 A. Yes.

26

27 Q. And then Bishop Malone wrote a letter, to your
28 understanding?

29 A. That's right.

30

31 MS LONERGAN: Commissioner, I tender the letter behind
32 tab 246, which is the letter from Father Castillo dated
33 29 May 1995.

34

35 THE COMMISSIONER: Thank you, Ms Lonergan. The letter to
36 Bishop Clarke from Father Castillo of 29 May 1995 will be
37 admitted and marked exhibit 132.

38

39 **EXHIBIT #132 LETTER TO BISHOP CLARKE FROM FATHER CASTILLO**
40 **OF 29/05/1995 (TAB 246)**

41

42 MS LONERGAN: Q. Monsignor, as vicar general to the
43 diocese, were you party on occasion to seminars at which
44 legal advice would be given by lawyers and/or insurance
45 representatives to the diocese?

46 A. Yes. The priests/clergy would be called together, and
47 they would be invited, and the topic would be announced.

1
2 Q. Were there on occasion - and I'm now asking you to
3 direct your mind to 1995 and 1996 - conferences where the
4 subject of how to manage sexual abuse allegations by clergy
5 were discussed?
6 A. Because of the climate, yes. Now, those dates
7 I wouldn't have a clue of.
8
9 Q. You're not sure about the years that these things
10 happened?
11 A. That's right.
12
13 Q. You say "because of the climate". Are you suggesting
14 that because your diocese had some dealings with this issue
15 in 1995 and 1993, at least, from the evidence --
16 A. Yes.
17
18 Q. -- that that was likely to be a time in which these
19 matters were covered?
20 A. It was a topic that we needed to address.
21
22 Q. Could you turn to tab 269 and also open volume 4 and
23 go to tab 274.
24 A. Yes.
25
26 Q. Do you see behind tab 274 is a letter to you from
27 Mr Rolls at Professional Standards Risk Management Service
28 at Catholic Church Insurances?
29 A. Correct.
30
31 Q. Do you remember receiving that particular letter?
32 A. I do.
33
34 Q. Did you seek advice from Mr Rolls personally?
35 A. No, because I'd finished in my term.
36
37 Q. You say "because I'd finished my term". What do you
38 mean?
39 A. As vicar general.
40
41 Q. But you would agree with me, wouldn't you, that you
42 were vicar general at least until 31 December 1995?
43 A. Yes.
44
45 Q. And this letter was directed to you?
46 A. In 1996.
47

1 Q. Yes, on 5 January 1996, yes.
2 A. Yes.
3
4 Q. And you recall reading it?
5 A. Yes.
6
7 Q. Do you recall that the letter enclosed with it an
8 advice, didn't it?
9 A. Yes.
10
11 Q. The advice is the document that appears behind tab 269
12 of volume 3, isn't it? It's an advice dated 28 November
13 1995. It's right at the back of volume 3.
14 A. Yes, there it is.
15
16 Q. You see it is an advice headed "Misprision of Felony
17 and Other Criminal Charges"? Do you see that?
18 A. Yes.
19
20 Q. Are you able to recollect whether in November 1995 or
21 prior to that, you requested any particular advice
22 regarding misprision of felony?
23 A. No, I just handed this correspondence over.
24
25 Q. What I'm asking you is something a bit different.
26 We'll come to what happened with the correspondence, but do
27 you remember asking for any particular advice about
28 misprision of felony?
29 A. No.
30
31 Q. Do you remember any context in which you were present
32 where misprision of felony was discussed, prior to November
33 1995 or during November 1995?
34 A. If we had a clergy conference, it could have.
35
36 Q. It would have?
37 A. It could have been - if we were all together as
38 a clergy, I would have heard it, yes.
39
40 Q. And are you able to say whether, in November 1995 or
41 prior, you were present at a clergy conference where the
42 question of misprision of felony was raised?
43 A. That's possible.
44
45 Q. Did you, in November 1995 or prior, form an
46 understanding about what misprision of felony was about?
47 A. I attempted to.

1
2 Q. What did you understand it to be in November 1995 or
3 earlier, if you're able to outline your understanding at
4 that time as opposed to now?
5 A. Just how ignorant we were in those days.
6
7 Q. And what do you mean by that?
8 A. I suppose in the sense that we saw it in black and
9 white, the guy was guilty - we didn't use those words
10 "felony" in our --
11
12 Q. Sure, you didn't know what a felony was?
13 A. No.
14
15 Q. But you knew that sexually abusing a child was
16 criminal behaviour; you knew that?
17 A. Yes.
18
19 Q. And you knew that in November 1995 and before that?
20 A. Yes.
21
22 Q. When do you think you first became aware that sexual
23 abuse of a child was a crime?
24 A. My understanding was from day one, when I took over.
25
26 Q. This particular advice dated 28 November 1995 - I just
27 want you to have a leaf through it and confirm, if you are
28 able, or deny, whether that's the advice that is referred
29 to in the letter of 5 January 1996 that we were just
30 looking at prior?
31 A. So you're looking at --
32
33 Q. I'm sorry this is a bit of an awkward task. Do you
34 see the document behind tab 269 is an advice --
35 A. "Any person knowing the crime", if that's what you are
36 referring to:
37
38 *Any person knowing the crime to have*
39 *committed and concealing it ...*
40
41 Q. We'll come back to the actual content of the document.
42 What I want to confirm is whether the advice behind
43 tab 269 - you see it's dated 28 November 1995 --
44 A. Yes.
45
46 Q. -- is the advice that was enclosed with the letter
47 directed to you dated 5 January 1996 behind tab 274 in the

1 other volume?
2 A. In 1996, in here?
3
4 Q. So do you have the 1996 letter directed to you? It's
5 behind tab 274 in volume 4.
6 A. Yes, 274.
7
8 Q. Do you see that's a letter 5 January 1996 directed to
9 you?
10 A. 5 January, yes.
11
12 Q. It's headed "Misprision of Felony".
13 A. Yes.
14
15 Q. It talks about:
16
17 *The police in the States of Victoria and*
18 *New South Wales have indicated they are*
19 *adopting the principle they should*
20 *investigate the possibility of laying*
21 *charges of Misprision of Felony in relation*
22 *to all cases involving criminal sexual*
23 *activity.*
24
25 Do you see that?
26 A. Yes.
27
28 Q. Then it says:
29
30 *Their enquiries in this connection have*
31 *alerted a number of Church personnel to the*
32 *possibility charges might ensue.*
33
34 Do you see that?
35 A. Yes.
36
37 Q. Do you remember that happening, that you were alerted
38 to the possibility that charges may ensue?
39 A. Yes, we were.
40
41 Q. Then it says:
42
43 *Accordingly we have obtained some general*
44 *advice on the subject which may be of*
45 *assistance to those who encounter this*
46 *situation.*
47

1 A. Yes.
2
3 Q. My question is: is the document behind tab 269, on
4 your recollection, the advice that accompanied this letter
5 to you of 5 January 1996?
6 A. In 1996?
7
8 Q. So you see the letter of January 1996 behind tab 274
9 doesn't have anything with it?
10 A. It doesn't have it, no.
11
12 Q. What I'm asking you to do is look back at the advice
13 that appears behind tab 269 and say whether that is the
14 advice that was provided with the letter of January 1996,
15 if you are able to say, and if you're unable to say, please
16 say so?
17 A. I'd have to say I have a hazy recollection.
18
19 Q. A hazy recollection. What do you mean by that?
20 A. I probably did read it. But did I take all of it in?
21
22 Q. Okay, dealing with the advice itself, the misprision
23 of felony advice - you have a hazy recollection of having
24 read it, do you?
25 A. Yes.
26
27 Q. And the letter of 5 January 1996 - do you have a hazy
28 recollection of having received it or a recollection of
29 having seen it?
30 A. No, I have a recollection of it.
31
32 Q. My question is: do you recall whether the advice
33 behind tab 269 was the advice referred to in the letter of
34 5 January 1996?
35 A. I believe it was.
36
37 Q. What did you do with the letter and/or the advice?
38 A. I left it as a part of my successor taking up.
39
40 Q. Your successor being the next vicar general?
41 A. Yes.
42
43 Q. Who was that?
44 A. Bill Burston.
45
46 Q. Did you discuss the contents of the letter and/or the
47 advice with anybody?

1 A. No.
2
3 Q. No-one at all?
4 A. No.
5
6 Q. Did you draw it to the attention of Bishop Malone?
7 A. Not to my knowledge.
8
9 Q. Where did you place the --
10 A. He would have had a copy of it.
11
12 Q. Why do you say that?
13 A. Because we all got them.
14
15 Q. Who is "we all"?
16 A. The clergy, I believe.
17
18 Q. Why do you say that? Did you see other clergy
19 receiving a copy or how do you know?
20 A. I believe that's what the diocese distributed so that
21 we'd be informed.
22
23 Q. So you have a belief that's what happened?
24 A. Yes.
25
26 Q. Do you know or can you identify any other priests or
27 clergy who in fact received it, or you're just assuming
28 that's what happened?
29 A. I'm assuming that's what happened.
30
31 MS LONERGAN: I tender together, Commissioner, the letter
32 behind tab 274 and the advice behind tab 269.
33
34 THE COMMISSIONER: Those two documents - that is, the
35 letter behind tab 274 and the advice behind tab 269 - will
36 be admitted together as exhibit 133.
37
38 **EXHIBIT #133 LETTER TO MONSIGNOR HART, DATED 5/01/1996**
39 **(TAB 274) AND ADVICE HEADED "MISPRISION OF FELONY AND OTHER**
40 **CRIMINAL CHARGES" (TAB 269)**
41
42 MS LONERGAN: Q. Monsignor, did you talk to anybody at
43 all about the contents of the advice, the misprision of
44 felony advice - not just clergy but anyone?
45 A. I think it was more in the context of clergy, because
46 we were talking about it.
47

1 Q. My question is very general: did you talk to anybody
2 about the contents of that advice?
3 A. No.
4
5 Q. Did you consider anything raised in that advice to be
6 something you needed to worry about?
7 A. Yes.
8
9 Q. In terms of your own conduct up to that time?
10 A. My word, yes.
11
12 Q. But you didn't ask anyone for any further advice about
13 your position?
14 A. No.
15
16 MS LONERGAN: Commissioner, I need to tender the 1995
17 diary extract, if I may.
18
19 THE COMMISSIONER: Yes. Where are they located?
20
21 MS LONERGAN: The 1995 diary extract I handed up
22 individually a little while ago. It is not in the bundles.
23 There should be a separate four-page extract, Commissioner.
24 If there is not, we will organise another copy.
25
26 THE COMMISSIONER: The extract from the 1995 diary of
27 Monsignor Hart will be exhibit 134.
28
29 **EXHIBIT #134 FOUR-PAGE EXTRACT FROM 1995 DIARY OF**
30 **MONSIGNOR HART**
31
32 MS LONERGAN: Q. I'm sorry to have so many things on the
33 go in front of you, Monsignor Hart. I hope you don't mind.
34 You have that 1995 diary extract.
35
36 Commissioner, do you have that?
37
38 THE COMMISSIONER: I'm sure that I do, but --
39
40 MS LONERGAN: I will hand up another copy.
41
42 Q. Do you see, monsignor, on the third page of that
43 extract a name appears next to the words "3pm" on 15 June
44 1995?
45 A. Yes.
46
47 Q. Can you read that name?

1 A. Yes.
2
3 Q. Is it Mike Stanwell?
4 A. It is.
5
6 Q. Do you know why you have an entry about him in your
7 diary from 1995 in June?
8 A. My supposition would be that he came to talk about
9 McAlinden.
10
11 Q. And you're supposing that; you don't remember the
12 details?
13 A. No.
14
15 Q. In June 1995, can you recollect whether there were any
16 other interactions with him that would have caused you to
17 have made a note of that kind on 15 June 1995? Don't tell
18 me what they were. Just answer "yes" or "no"?
19 A. No.
20
21 Q. No?
22 A. No.
23
24 Q. Between 1995, when you knew McAlinden was in the
25 Philippines, and 2005, at the time McAlinden died, did you
26 know where he was?
27 A. No.
28
29 Q. Do you know whether the diocese was actively looking
30 for him on occasion during that ten-year period?
31 A. I don't know.
32
33 Q. Were you party to any discussions with any police
34 officers about where McAlinden was?
35 A. No.
36
37 Q. Did you become aware that McAlinden was, on occasion,
38 living in Western Australia during that ten-year period or
39 not?
40 A. No.
41
42 Q. In 2012, after this Commission was announced, you went
43 to the trouble of making a handwritten note about various
44 matters? I'm going to have a copy of that shown to you,
45 together with a typescript.
46
47 Commissioner, the document appears behind tab 513 in

1 its handwritten form. I will hand up a typescript for the
2 assistance of you, Commissioner, and the witness.

3
4 You can close up those two volumes you have in front
5 of you and have a look at volume 7, behind tab 513.

6 A. Yes.

7
8 Q. Monsignor, do you mind taking the handwritten
9 photocopy out and holding it up for me for a minute?
10 I want to make sure we have the right document. Just the
11 first page of it. That's fine. Thank you. That's
12 a handwritten summary that you prepared earlier this year?

13 A. Yes.

14
15 Q. In that document, you have tried to put together your
16 recollection of the history of various things?

17 A. Yes.

18
19 Q. You'll see there has been a part redacted out there.

20 A. Yes.

21
22 Q. We don't need to worry about that. You make the
23 comment regarding what a vicar general means.

24 A. Yes.

25
26 Q. You say:

27
28 *- acts in the absence of the Bishop when*
29 *the Bishop is outside the Diocese*
30 *- acts according to the "mind of the*
31 *Bishop".*

32
33 A. Yes.

34
35 Q. What did you mean by that observation?

36 A. "The mind of the Bishop"?

37
38 Q. Yes, "acts according to the mind of the Bishop". Does
39 that mean that you exercised no free will when you were the
40 vicar general, or how does that work?

41 A. Can I tell you a story?

42
43 Q. Is it a long one?

44 A. No.

45
46 Q. Is it an entertaining one?

47 A. I hope so.

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Q. Okay, if it's relevant to the question I'm asking and provided there are no objections.

A. Well, I think it is.

Q. If there's an objection, you have to stop. All right?

A. Right. The bishop asked me to be his vicar general; would I think about it and pray about it. Two days later, he said, "What do you think?", and his question was, "What do you think would be the most difficult thing to do?" And I said, "To act according to your mind." And he laughed and he said, "Well, because of that, you've got the job."

Q. When you take on the oath of vicar general, you swear an oath of office?

A. Yes.

Q. I'm going to hand up a copy of that and ask you to have a look at the one signed by you, which was dated 25 September 1990.

A. Yes.

MS LONERGAN: Did I hand a copy to you, Commissioner?

THE COMMISSIONER: Not yet, Ms Lonergan.

MS LONERGAN: I'm sorry.

Q. You'll see, monsignor, that you swear to faithfully fulfil the office entrusted?

A. Yes.

Q. That you will "transact all business according to law under the authority of the Bishop of the Diocese of Maitland" and that you "shall keep secrecy in confidential matters according to law". Do you see that?

A. Yes.

Q. What's the "secrecy" bit referring to?

A. It's according to the canon law, right? So it's talking about canon law, about the primacy of the bishop's role.

Q. What's the "secrecy in confidential matters" referring to?

A. Well, in that sense, if the bishop, with his vicar general, is dealing with special issues and we talk

1 to one another, therefore we've got to make sure that we're
2 telling the truth and acting according to canon law.

3

4 Q. Does that oath that you took prevent you from telling
5 the truth in this court?

6

7

8 Q. And does that oath you took prevent you from advising
9 whether you knew about secret files the bishop kept?

10

11

12 MS LONERGAN: I tender that, Commissioner.

13

14 THE COMMISSIONER: The oath of office signed by
15 Monsignor Hart upon becoming vicar general on 25 September
16 1990 will be admitted and marked exhibit 135.

17

18 **EXHIBIT #135 OATH OF OFFICE SIGNED BY MONSIGNOR HART UPON**
19 **BECOMING VICAR GENERAL ON 25/09/1990**

20

21 MS LONERGAN: Q. In your handwritten document that we
22 have the typescript of, you've made this comment:

23

24

25

26

*We need to appreciate that Denis was
a nomad, like many Irish Clergy.*

27 Did you know he was a nomad before you started dealing with
28 matters to do with him in 1993?

29

30

31

32 Q. That was your observation of his behaviour prior to
33 1993, was it?

34

35

36 Q. In this document, you have set out what you
37 recollected, when you made this note, was the history of
38 the way things panned out regarding McAlinden?

39

40

41 Q. Just read that to yourself.

42

43

44 Q. The first two matters - is that consistent with your
45 recollection?

46

47

1 Q. Although you've said:
2
3 ... [AL] had heard that he might be in
4 northern New Guinea.
5
6 Was that not correct?
7 A. That's not correct.
8
9 Q. [AL] had heard and told you she had heard he might be
10 in the Philippines?
11 A. That's the second part of the story.
12
13 Q. So New Guinea was later, was it?
14 A. Yes.
15
16 Q. You say:
17
18 *I rang Fr Brian Lucas ...*
19
20 Do you see you say that there?
21 A. Yes.
22
23 Q. Would you agree with me that your evidence today is
24 that Bishop Clarke rang Father Brian Lucas or were there
25 also calls by you to Father Brian Lucas?
26 A. I made a number of calls, particularly when Leo was
27 out of the diocese, for canonical advice - or civil laws.
28
29 Q. You say:
30
31 ... *Law Civil Laws Common [sic] Law ...*
32
33 A. Yes.
34
35 Q. Did you understand Father Lucas to be a canon lawyer
36 or just a civil lawyer?
37 A. Civil law, but got great expertise in canon law.
38
39 MR SKINNER: I'm sorry, I missed the word before "canon
40 law".
41
42 THE COMMISSIONER: "Expertise".
43
44 MS LONERGAN: Q. Monsignor, you're assuming that
45 Father Lucas has expertise in canon law?
46 A. Yes.
47

1 Q. No-one has told you, in particular, that he is
2 a trained canon lawyer, have they?
3 A. My impression was from Bishop Leo.
4
5 Q. If Father Lucas isn't a fully trained canon lawyer, is
6 that inconsistent with what you've been told?
7 A. No.
8
9 Q. Did you ever ask Father Lucas whether he was a fully
10 trained canon lawyer?
11 A. No.
12
13 THE COMMISSIONER: So the transcript of that handwritten
14 note by Monsignor Hart is wrong, then, Ms Lonergan? It
15 says "common law" rather than "canon law".
16
17 MS LONERGAN: It says:
18
19 *Law Civil Laws Common Law for advice.*
20
21 THE COMMISSIONER: But as I understood Monsignor Hart's
22 evidence, he said that his note says, "Civil Laws Canon Law
23 for advice".
24
25 MS LONERGAN: It may have been transcribed incorrectly.
26 This transcription was provided by Mr Cavanagh, and it may
27 have a typographical error in it. I'll check with
28 Mr Cavanagh whether he is content. I'm sorry, I'll just
29 check with Monsignor Hart.
30
31 Q. Monsignor, would you mind looking at your handwritten
32 version. It says --
33 A. "Civil Law and Canon Law".
34
35 Q. "Civil Law and Canon Law for advice"?
36 A. Yes.
37
38 Q. The word "Law" that appears after the hyphen is
39 crossed out in your draft, so it should be "Civil Law
40 and" --
41 A. "And Canon Law".
42
43 MS LONERGAN: Thank you, Commissioner, for noticing that.
44
45 Q. Then you say:
46
47 *I rang the Apostolic Nuncio ...*

1
2 A. We're jumping now to 1995.
3
4 Q. So you're saying that the "I rang the Apostolic" --
5 A. This is the second movement.
6
7 Q. And you say it's about New Guinea; you said "if he
8 could contact his counterpart in New Guinea"?
9 A. It wasn't in New Guinea. It was in the Philippines.
10
11 Q. So you say it's a mistake there, but you did make that
12 call?
13 A. Yes.
14
15 Q. Then you say:
16
17 *He affirmed that Denis was in Northern*
18 *New Guinea ...*
19
20 A. No, the Philippines.
21
22 Q.
23 *... and was to return to Australia.*
24
25 A. Yes.
26
27 Q. We've looked at letters that say he was to return to
28 the UK, but was it your recollection that he was to return
29 to Australia?
30 A. To Australia.
31
32 Q.
33 *Fr Brian Lucas, to my knowledge, told Denis*
34 *to come and see him and report to the*
35 *Police.*
36
37 What do you base that statement on?
38 A. Bishop Leo.
39
40 Q. Told you?
41 A. Told me that he was flying in and he would be arrested
42 when he got off the plane.
43
44 Q. All right, would be arrested when he got off the plane
45 from the Philippines or from another place?
46 A. Another place.
47

1 Q. What year was that going to happen?
2 A. That was in 1993.
3
4 Q. And are you confident that Bishop Clarke told you that
5 was what was going to happen?
6 A. Yes.
7
8 Q. Then:
9
10 *Denis did not approach Bishop Clarke.*
11
12 What's that a reference to time-wise?
13 A. I don't know why I've got that down there.
14
15 Q. Did you have an understanding as to whether McAlinden
16 came back into the diocese and had any more discussions
17 with Bishop Clarke after [AJ] made her complaint to you in
18 early 1993, or you're just unable to say?
19 A. I'm unable to say.
20
21 Q. So not sure why you put that in there at that point?
22 A. No.
23
24 Q. Then the next part is:
25
26 *Bishop Clarke, was of the opinion, that the*
27 *police had been informed and that it was*
28 *possible he would go to Western Australia*
29 *for a heart operation.*
30
31 Now, what is your basis for saying that there?
32 A. It was common knowledge in the clergy that he had
33 a heart condition.
34
35 Q. Put aside the heart condition. I'm asking more about
36 Bishop Clarke being of the opinion that the police had been
37 informed and that it was possible he would go to Western
38 Australia for a heart operation. Did Bishop Clarke tell
39 you that that was his opinion, that the police had been
40 informed and that it was possible he would go to Western
41 Australia for a heart operation?
42 A. Yes.
43
44 Q. Do you remember when Bishop Clarke told you that?
45 A. I think that was in - off the top of my head, I think
46 that was in - was it 1994?
47

1 Q. Then you say:
2
3 *This operation happened but the police, to*
4 *my knowledge, didn't see him.*
5
6 A. Yes.
7
8 Q. What's your basis for saying that, that the police, to
9 your knowledge, didn't see him?
10 A. Leo said nothing happened.
11
12 Q. Nothing happened in terms of the police?
13 A. Yes.
14
15 Q. Within these conversations or conversation with
16 Bishop Clarke, did he tell you that the police were looking
17 for him at this time?
18 A. Yes.
19
20 Q. And you think this is 1994?
21 A. I think so.
22
23 Q. Are you sure about that?
24 A. Well, I don't think it was - I don't think it was 1995
25 when he had the heart operation.
26
27 Q. Do you relate the information Bishop Clarke gave you
28 about McAlinden being looked for by the police to this sort
29 of time period?
30 A. Yes.
31
32 Q. The 1990s?
33 A. Yes.
34
35 Q. Not later, not late 1990s and the 2000s?
36 A. No, I have nothing - no knowledge of that.
37
38 Q. Then you say:
39
40 *He then disappeared again ... to San Pablo*
41 *Parish June 20 1995 ...*
42
43 A. True.
44
45 Q. And that's based on you looking at your own letter?
46 A. Yes
47

1 Q. Then at the end, you say:

2

3 *Denis returned to Western Australia and*
4 *died getting off the plane on 30 November*
5 *2005.*

6

7 What's your source for that information?

8 A. I now know it's wrong.

9

10 Q. Yes, but why did you put that in there? Who told you
11 that that's what had happened?

12 A. Well, that's what I believe we were told initially.

13

14 Q. Do you remember who told you that?

15 A. I - I don't remember, because I asked, when I was down
16 in Sydney, did anybody know that he was back in the
17 diocese, and no-one seemed to know anything, so I was
18 trying to get my mind around it.

19

20 Q. So that statement there - you just recollected that
21 was what you were told at the time; is that the position?

22 A. Yes.

23

24 Q. And you now know that's incorrect?

25 A. I know it's incorrect.

26

27 MS LONERGAN: I tender that typescript and the handwritten
28 document that appears behind tab 513.

29

30 THE COMMISSIONER: The handwritten document behind
31 tab 513, together with the typed transcription
32 incorporating those corrections will be admitted and marked
33 exhibit 136.

34

35 **EXHIBIT #136 HANDWRITTEN DOCUMENT (TAB 513) TOGETHER WITH**
36 **A TYPED TRANSCRIPTION INCORPORATING CORRECTIONS**

37

38 MS LONERGAN: Q. Monsignor, I'm going to get you to get
39 out volume 3 again. You can put volume 4 and volume 7
40 away. Turn up tab 230. Do you see that's a handwritten
41 letter to Monsignor Coolahan by McAlinden?

42 A. I do.

43

44 Q. Monsignor Coolahan, as at the date of the letter, March
45 1994, looked after the Sick Clergy Fund, did he?

46 A. He did. Sorry, he was secretary of the Maitland
47 Clergy Central Fund.

1
2 Q. McAlinden seems to be informing Monsignor Coolahan
3 about medical costs related to some major surgery, being
4 multiple bypass surgery?
5 A. Yes.
6
7 Q. And that McAlinden had that surgery?
8 A. So this was 1994.
9
10 Q. Yes, 1994, and that he had that surgery in Western
11 Australia?
12 A. He did.
13
14 Q. Do you see that?
15 A. Yes.
16
17 Q. Are you able to say whether you saw this letter at or
18 around the time it arrived to Monsignor Coolahan at the
19 Maitland Clergy Central Fund?
20 A. No, no.
21
22 Q. You can't say whether you saw it?
23 A. No.
24
25 Q. Are you able to say whether you've seen it since March
26 1994 in any context, such as your role with the Clergy
27 Central Fund?
28 A. No, it was always in the hands of the secretary.
29
30 Q. In the first paragraph of the letter, do you see that
31 McAlinden says:
32
33 *Since then was forced to return to W.A.*
34 *before Christmas for major surgery ...*
35
36 Do you see that?
37 A. Yes.
38
39 Q. So that suggests, doesn't it, that the surgery
40 happened in late 1993?
41 A. It does.
42
43 Q. Or at least the return to Western Australia occurred
44 in 1993?
45 A. Yes.
46
47 MS LONERGAN: I tender that letter, Commissioner.

1
2 THE COMMISSIONER: The letter from Denis McAlinden to
3 Monsignor Coolahan of 30 March 1994 will be exhibit 137.
4

5 **EXHIBIT #137 LETTER FROM DENIS MCALINDEN TO MONSIGNOR**
6 **COOLAHAN OF 30/03/1994 (TAB 230)**
7

8 MS LONERGAN: Q. Monsignor, with the assistance of your
9 lawyers, you prepared two statutory declarations that were
10 directed at particular questions raised by those assisting
11 the Commissioner. Do you recall doing that?

12 A. Yes.
13

14 Q. One is dated 15 [sic] March 2013, and another is dated
15 25 March 2013. I'll hand copies of each of those up to you
16 and a copy of each for the Commissioner. First of all, the
17 statutory declaration dated 16 March - for the purposes of
18 that document, you were directed to make some inquiries
19 with the records of the Clergy Central Fund?

20 A. Correct.
21

22 Q. To see if there were records of payments and/or
23 addresses relating to McAlinden from 1993 to the time
24 McAlinden died?

25 A. Correct.
26

27 Q. And you did that?

28 A. We did.
29

30 Q. The contents of the statutory declaration are true and
31 correct?

32 A. Yes.
33

34 Q. And are a reflection of the searches and documents
35 that were able to be located at the time you made that
36 statutory declaration?

37 A. True.
38

39 MS LONERGAN: Mr Cavanagh has drawn to my attention that
40 at the end of the statutory declaration we're just looking
41 at, it's dated 16 March 2013. I think I read on to the
42 record the 15th. So that should be corrected on the front
43 page of the document. It should be "16 March".
44

45 Q. Now, do you see annexed to that statutory declaration,
46 there is a fax of Monsignor Coolahan dated 13 August 1997
47 suspending all MCCF payments?

1 A. Yes.

2

3 Q. There's also minutes of a meeting of the Clergy
4 Central Fund?

5 A. Yes.

6

7 Q. On the second page of those minutes, which is also
8 annexed to your statutory declaration:

9

10 *The Bishop said Fr McAlinden's whereabouts*
11 *are unknown, although he is believed to be*
12 *back in Australia but not practising as*
13 *a priest.*

14

15 Do you see that?

16 A. I do.

17

18 Q. I'll read the rest of it in a minute. That suggests,
19 doesn't it, that in 1997 the Maitland Clergy Central Fund
20 officials at least knew or had a belief that McAlinden was
21 back in Australia?

22 A. Yes, this is Bishop Michael.

23

24 Q. Yes?

25 A. Yes, this is Bishop Michael.

26

27 Q. Quite. In 1997?

28 A. This is what he said. This is what - yes.

29

30 Q. So it was a belief rather than, as you understand it,
31 proof or actual knowledge?

32 A. True.

33

34 Q. It seemed inappropriate, it was agreed, that he
35 continue to receive payments, and you were present at this
36 meeting where that was brought up, were you?

37 A. No.

38

39 Q. Do you recall being informed that decisions were made
40 to the effect that McAlinden shouldn't receive any more
41 money from the diocese, given that he was failing to make
42 contact with the diocese that was trying to contact him?

43 A. This was a decision by Bishop Michael

44

45 Q. And you were made aware of it in 1997?

46 A. No. Only when I took over, 2000.

47

1 Q. You have appended that to your statutory declaration
2 as an historical document relevant to the inquiries we
3 asked you to make?

4 A. True.

5
6 MS LONERGAN: I tender that statutory declaration,
7 Commissioner.

8
9 THE COMMISSIONER: The one of 16 March 2013, by
10 Monsignor Hart will be admitted and marked exhibit 138.

11
12 **EXHIBIT #138 STATUTORY DECLARATION OF MONSIGNOR HART, DATED**
13 **16/03/2013**

14
15 MS LONERGAN: Q. Monsignor, you prepared a further
16 statutory declaration, at the request of those who assist
17 the Commissioner, attaching further records that had been
18 found in the archives that related to payments to
19 McAlinden?

20 A. True.

21
22 Q. You carried out or caused to be carried out those
23 further searches to assist those who assist the
24 Commissioner?

25 A. True.

26
27 Q. The material annexed was a result of those further
28 searches?

29 A. Yes.

30
31 MS LONERGAN: I tender the statutory declaration,
32 Commissioner, dated 25 March 2013.

33
34 THE COMMISSIONER: Monsignor Hart's statutory declaration
35 of 25 March 2013 will be admitted and marked exhibit 139.

36
37 **EXHIBIT #139 STATUTORY DECLARATION OF MONSIGNOR HART,**
38 **DATED 25/03/2013**

39
40 MS LONERGAN: Those are my questions, Commissioner.

41
42 THE COMMISSIONER: Thank you, Ms Lonergan. Mr Skinner?

43
44 **<EXAMINATION BY MR SKINNER:**

45
46 MR SKINNER: Q. Monsignor, I think you agreed in
47 questioning by Ms Lonergan last Friday, and again today,

1 that you believe that [AJ] does her best to tell the truth?
2 A. Yes.
3
4 Q. You've agreed that you had several telephone
5 conversations with her?
6 A. Yes.
7
8 Q. It was said to you in a conversation that she had had
9 a report back to her by Father Brian Lucas about a meeting
10 Father Brian Lucas had had with McAlinden? Do you remember
11 a conversation with her where she rang you and she was
12 angry about something Lucas had reported back to her,
13 apparently, about his meeting with McAlinden?
14 A. My understanding was that she was angry at the way
15 that it was tackled.
16
17 Q. Do you remember in that conversation or another
18 conversation you might have had with her that one of the
19 things she said was something about it being a story for
20 60 Minutes, in the context that maybe she would go public
21 or something?
22 A. I actually don't remember that comment, but I know she
23 was cranky. Whether she said that, I couldn't say "yes" or
24 "no".
25
26 Q. Did you ever say words to her to the effect, "Leave it
27 with me. I have to meet McAlinden with Bishop Clarke.
28 I will call you and let you know what happens"?
29 A. I don't ever remember meeting McAlinden with
30 Bishop Clarke.
31
32 Q. Would it have been something that you would have said
33 to [AJ] that you were going to do?
34 A. I was saying I'd talk to Bishop Clarke.
35
36 Q. Was there ever any intention for you to meet McAlinden
37 with Bishop Clarke that you passed on to [AJ]?
38 A. No.
39
40 Q. You don't ever remember meeting him?
41 A. No.
42
43 Q. Do you ever remember a phone call with her, subsequent
44 to the one that I've just been suggesting to you took place
45 in which she was cranky, in which you said to her words to
46 the effect, "This is what we have decided to do with him:
47 we have suggested to him that he go and live elsewhere now

1 that he is no longer a priest. Father McAlinden has
2 decided he will go to England where his sister and her
3 husband live. We have agreed to buy him a one-way ticket"?
4 Do you ever remember saying that to her?
5 A. I don't remember the one-way ticket.
6
7 Q. I've given you a lot there. What about the rest of
8 it? "This is what we have decided to do with him" - did
9 you ever say that to her?
10 A. The "we" I believe I was talking about was the
11 connection between Lucas and the bishop.
12
13 Q. But do you think you might said to her "we", that out
14 of your mouth the word "we" came?
15 A. Oh, I probably might have said "we", meaning the other
16 two.
17
18 Q. Do you still have volume 3 there with you?
19 A. Yes.
20
21 Q. If you would go to tab 221 - for the record, that came
22 in as exhibit 128 eventually - and tab 222, which is also
23 part of exhibit 128, and tab 224, which is exhibit 130,
24 I'll just ask you something about that, if I may.
25 A. Are we looking at 224, did you say?
26
27 Q. That series of letters.
28 A. Yes.
29
30 Q. Well, there's a couple of letters. You sent a letter,
31 it would seem, 14 May 1993, to McAlinden?
32 A. Yes.
33
34 Q. When he was in England - Skegness, I think.
35 A. That's right. That's when the bishop was away, yes.
36
37 Q. I heard your evidence about the house where he might
38 have been able to stay in the Republic of Ireland run by
39 the Poor Sisters of Nazareth, the house known as
40 Nazareth House in County Cork. I thought you said that the
41 information about this house came to you from Father Lucas?
42 A. Father Lucas gave me the contact with the bishop,
43 first of all, that I wrote - because I didn't know any
44 bishops over there. Father Lucas, in my memory, gave me,
45 "This is the guy you need to contact."
46
47 Q. If you look carefully at the letters at tabs 222 and

1 224, it would seem that the information about
2 Nazareth House came to you from Monsignor Dan Leonard,
3 vicar general in Birmingham?
4 A. That's true. Yes.
5
6 Q. The input of Father Brian Lucas was possibly merely to
7 give you the name of Dan Leonard; would that be right?
8 A. I thought he gave me the - to my memory, he gave - you
9 could be right, but --
10
11 Q. In any event, the information about Nazareth House as
12 being a possible place for Father McAlinden to go, given
13 that he felt unable to stay with his sister in England,
14 came from this Monsignor Dan Leonard in Birmingham?
15 A. Correct, yes.
16
17 MR SKINNER: Thank you. Those are my questions.
18
19 MR McMAHON: No questions, Commissioner.
20
21 **<EXAMINATION BY MR GYLES:**
22
23 MR GYLES: Q. Just a few brief matters, monsignor. The
24 first, do you still have volume 3?
25 A. Yes.
26
27 Q. Could you go to tab 256, please?
28 A. Yes.
29
30 Q. You'll recognise this as the minutes of the deans
31 meeting of 2 August 1995?
32 A. I do, yes.
33
34 Q. You were asked some questions about it, particularly
35 as to the amendment made in the final paragraph under the
36 heading "Correspondence". Do you see that?
37 A. Yes.
38
39 Q. I think your evidence was that you prepared these
40 minutes, is that right, generally speaking?
41 A. Well, it was the secretary who took the minutes, yes.
42
43 Q. You were the secretary; is that right?
44 A. I was.
45
46 Q. Are you able to call upon an independent recollection
47 of this meeting or are you relying upon your ordinary

1 practice as to being able to say that you prepared the
2 minutes?
3 A. I prepared the minutes, yes.
4
5 Q. Do you have a recollection of this meeting?
6 A. Not really.
7
8 Q. You told us that Bishop Clarke signed off on the
9 minutes and was a stickler for spelling, for example?
10 A. Correct.
11
12 Q. If you go to the particular paragraph where the word
13 "legislation" has been crossed out, you will see that
14 there's an initial that has been placed above it?
15 A. Yes.
16
17 Q. Is that an initial that you recognise from the way in
18 which the minutes of this meeting or these meetings were -
19 is that an objection?
20
21 MS LONERGAN: It will be.
22
23 MR GYLES: Q. Is that an initial that you recognise?
24
25 MS LONERGAN: I object. Commissioner, there is no
26 evidence that it is in fact an initial. "Initial" has with
27 it a certain added meaning, and it should be put more
28 generally than it being an initial, to allow the witness to
29 address whether it is an initial or a letter or a scrawl or
30 something else.
31
32 THE COMMISSIONER: Yes, all right.
33
34 MR GYLES: I'm happy to approach it in a broader way.
35
36 THE COMMISSIONER: Thank you, Mr Gyles.
37
38 MR GYLES: Q. You told us that Bishop Clarke was
39 a stickler for making sure minutes were accurate?
40 A. Yes.
41
42 Q. Was it the case that, on occasions that you prepared
43 minutes of these types of meetings, he would then amend
44 those minutes before he signed off on them?
45 A. Not amending, but if there was any spelling and things
46 of that nature.
47

1 Q. You will see that someone here has crossed out the
2 word "legislation"?
3 A. Yes.
4
5 Q. You will see above the cross-out there is, put
6 neutrally, a mark?
7 A. And I'm suggesting - I might be wrong - that he was
8 writing - he was going to write "laicisation".
9
10 Q. When you say "he", is that mark that we see above that
11 something that you recognise in terms of the person who
12 might have put that mark on it?
13 A. Yes. That looks like Leo. I've got the wrong word.
14
15 Q. So you would recognise that as being something that's
16 likely to have been put there by Leo Clarke?
17 A. Yes.
18
19 Q. As to his intention in doing so, you're not sure?
20 A. Well, I think he wanted the right word, "laicisation".
21
22 Q. But you have no independent recollection of this
23 meeting?
24 A. No, no.
25
26 Q. You used the word there "laicisation". Do you have
27 any recollection of the term "canon 1044" in connection
28 with that procedure?
29 A. That's the document that the canon lawyer drew up, was
30 it not?
31
32 Q. You've used the word "laicisation". I've used the
33 words "canon 1044 process". You understand those two
34 things to be the same, do you?
35 A. Can you repeat 1044 for me?
36
37 Q. Is "canon 1044" a term that you recognise? I'm not
38 saying you should.
39 A. Sorry?
40
41 Q. I'm not saying you should recognise it.
42 A. No, no.
43
44 Q. I'm asking whether you do. So do you recognise that
45 expression, "canon 1044 procedure"?
46 A. No, I don't.
47

1 Q. Could you go backwards, please, to tab 249. This
2 concerns the period in which people were concerned that
3 McAlinden had been identified as being in the Philippines,
4 that is, in about the middle of 1995. Do you recall that?
5 A. Did you say 249?
6

7 Q. 249. I think what you told the Commissioner was that
8 [AL] had spoken to you at about this time; she had become
9 aware that McAlinden was in the Philippines, and I think
10 the words you used were "she wanted him out of the
11 Philippines"?
12 A. Yes.
13

14 Q. In this particular letter, which I think you agreed
15 with Ms Lonergan that you've probably gone back to, we see
16 in the fourth-last paragraph the bishop of San Pablo is
17 telling Bishop Clarke:
18

19 *I hope you will be able to convince him to*
20 *go to Ireland.*
21

22 Do you see that?

23 A. Yes.
24

25 Q. Then if we move forward to tab 250, you will see
26 that's the letter that you wrote that you were asked some
27 questions about.

28 A. Yes.
29

30 Q. What we see in the second paragraph is that consistent
31 with what [AL] had told you she wanted and consistent with
32 what the bishop in the Philippines wanted, what you are
33 asking for is confirmation that "your diocese" - ie, the
34 diocese in the Philippines - "has removed his faculties and
35 that he will return to England". Do you see that?

36 A. Yes.
37

38 Q. So you wanted some confirmation of that from him to
39 satisfy the concerns that people were expressing here?

40 A. Yes, yes, true.
41

42 Q. If we move forward to tab 253, we see that this is
43 a letter of the character of that which had been requested,
44 namely, a letter from Denis McAlinden to the bishop of
45 San Pablo informing him or confirming that he would be
46 returning to Ireland for the Feast of the [Assumption] on
47 15 August. So he was returning to Ireland on 15 August; do

1 you see that?
2 A. Yes.
3
4 Q. So there was confirmation from McAlinden?
5 A. Yes.
6
7 Q. Then at tab 255 we see confirmation from the bishop,
8 sent to you, that he - ie, McAlinden - has decided to leave
9 the Philippines on 2 August 1995 for Ireland. Do you see
10 that?
11 A. Yes.
12
13 Q. You would agree with me, wouldn't you, that that met
14 the concerns that [AL] had expressed to you that she wanted
15 him out of the Philippines?
16 A. She did, yes.
17
18 Q. You were asked questions about the documents behind
19 tabs 269 and 275. You don't need to go to these. You will
20 remember them. The document at tab 269 is the misprision
21 of felony and other criminal charges opinion, and there is
22 the letter that you have assumed, or your evidence was, was
23 probably - perhaps I'll be more accurate. There is
24 a letter at tab 274 which was sent to you by Mr Rolls. Do
25 you recall that?
26 A. Yes.
27
28 Q. You know, obviously, that you got that letter, don't
29 you, because it's addressed to you?
30 A. Yes.
31
32 Q. As far as your knowledge as to who else may have got
33 it, you are not in a position to say, are you, as to who
34 else within the diocese got that letter?
35 A. The bishop would have got a copy - or the two bishops
36 would have.
37
38 Q. You say "would have"?
39 A. Would have.
40
41 Q. You're not able to call, are you, upon any independent
42 recollection of seeing a letter to the bishop enclosing the
43 advice, are you?
44 A. No.
45
46 Q. You were asked some questions about a meeting at the
47 bishop's house between Sister Redgrove and [AL]. Do you

1 recall that?
2 A. Yes.
3
4 Q. I think you told us that that meeting took place at
5 the bishop's house?
6 A. It did.
7
8 Q. Do you have any knowledge as to whether
9 Sister Redgrove was a friend of Father Burston? You may or
10 may not know that.
11 A. I wouldn't know.
12
13 Q. Do you have any recollection of speaking with
14 Father Burston at about this time - namely, before you had
15 the meeting with Sister Redgrove - about matters concerning
16 Sister Redgrove?
17 A. No.
18
19 Q. We are obviously going back a fair period of time
20 here. Is it possible that you may have had a conversation
21 with Father Burston concerning Sister Redgrove?
22 I appreciate that you have no recollection of it now.
23 A. I've got no recollection.
24
25 Q. What I'm asking you is whether it is possible that you
26 did have a conversation with Father Burston at about that
27 time? Do you agree that is possible?
28 A. I don't know whether Father Burston knew --
29
30 Q. Leaving aside whether or not Father Burston knew
31 Sister Redgrove, all I'm seeking to do is to test the
32 strength of your recollection of that period of time.
33 I think you have said that you do not recall Father Burston
34 ringing you at about this time?
35 A. No, no.
36
37 Q. But what I'm asking you is whether it's possible that
38 he did so, but you cannot now recall?
39 A. I can't recall.
40
41 Q. So it's possible that he did, but you can't recall?
42 A. Possible.
43
44 Q. You were asked some questions about an unnamed priest
45 recently making reference to a briefcase that he had with
46 some old papers. Do you recall that?
47 A. Yes.

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Q. Without attempting to summarise accurately what was said, I think he said words to the effect that he had concerns that it may have been the bishop's, or contained some documents from the bishop's secret file?

MS LONERGAN: I object. What I put to this witness was that he, the witness, had said it, not that the other priest had said it.

MR GYLES: I am grateful to Ms Lonergan for correcting that.

Q. You heard what Ms Lonergan said?

A. Yes.

Q. You said the words, "Once I'd looked at them, I knew something", and I'm not sure you finished that. Is it the case that you did look at those documents?

A. Yes.

Q. And is it the case that they did not contain any documents concerning Father McAlinden?

A. True. They were documents to me that I'd left behind.

Q. Nor were they documents concerning James Fletcher?

A. No.

Q. Do you have a recollection, in 1993, of speaking to [AJ] concerning Father McAlinden having missed a flight from Western Australia? Do you have any recollection of that?

A. I'm not too sure who told me, but someone told me that he missed the flight.

MR GYLES: I have no further questions. Thank you, Commissioner.

THE COMMISSIONER: Mr Cavanagh?

MR CAVANAGH: Commissioner, I would like to go after the other practitioners --

MS LONERGAN: Commissioner, may I rise to deal with two documents that I have located, and I need to ask the witness whether he is able to identify some handwriting for the assistance of those at the Bar table, hopefully.

1
2 THE COMMISSIONER: Yes. What do you say about
3 Mr Cavanagh's suggestion that he goes after you?
4
5 MS LONERGAN: He can go after me now, and I'll go after
6 him.
7
8 MS GERACE: I have a few questions.
9
10 MR CAVANAGH: I meant after the front bench.
11
12 THE COMMISSIONER: Yes. I'm sorry, I thought you said
13 counsel assisting, Mr Cavanagh.
14
15 MR CAVANAGH: Before her final address.
16
17 MS LONERGAN: Commissioner, I'm raising these now in case
18 others have questions arising from them.
19
20 **<EXAMINATION BY MS LONERGAN:**
21
22 MS LONERGAN: Q. Monsignor, do you mind getting
23 volume 3, if you don't already have it open there?
24 A. Yes, volume 3.
25
26 Q. Behind tab 204, I just want to inquire whether
27 a document bears your handwriting or if you can assist with
28 whose it is. Do you see there is some handwriting on
29 a document headed "Catholic Development Fund"?
30 A. Yes.
31
32 Q. It has some addresses?
33 A. Yes.
34
35 Q. Is that your handwriting, or any of it?
36 A. No, no.
37
38 Q. Do you know whose it is? Don't worry if you don't.
39 A. I don't know.
40
41 Q. Behind tab 208 there is some handwriting on a blank
42 piece of paper. Just ignore what's typed at the top as to
43 who the author is, but are you able to assist with whose
44 handwriting that is?
45 A. No.
46
47 Q. Are you able to say whether it is Leo Clarke's

1 handwriting or not?
2 A. It does not look like Leo's. He's very precise.
3
4 MS LONERGAN: Thank you, Commissioner. I wasn't going to
5 tender either of those documents.
6
7 THE COMMISSIONER: Thank you.
8
9 **<EXAMINATION BY MS GERACE:**
10
11 MS GERACE: Q. Monsignor, can I ask you to have a quick
12 look at those minutes at tab 256. Just in terms of the
13 procedure for taking the minutes, did you type these
14 personally?
15 A. No.
16
17 Q. Did you dictate them either by way of machine or by
18 shorthand to someone?
19 A. I wrote them.
20
21 Q. You wrote them, and then someone typed them up?
22 A. The secretary typed them.
23
24 Q. Who typed them for you?
25 A. The secretary.
26
27 Q. Who was the secretary at the time?
28 A. Joan - Joan - what was her name? Joan. I've
29 forgotten her second name. Joan Boyle.
30
31 Q. Could it have been an Elizabeth Doyle, or is that
32 someone different from Joan Boyle?
33 A. She succeeded.
34
35 Q. Thank you. I've been assisted. Can I take you to
36 exhibit 120, which was the desk calendar diary for 1993.
37 If you could have a look at that for me, monsignor, and
38 I want to ask you some questions about the note made by
39 you, "Servants of the Paraclete"?
40 A. Yes.
41
42 Q. As I understood your evidence, this was a note left
43 for you to call Brian Lucas?
44 A. True.
45
46 Q. And you identify those words, "Servants of" or "at the
47 Paraclete" as your handwriting?

1 A. Yes.
2
3 Q. You were asked some questions this morning about
4 Servants of the Paraclete being an organisation dedicated
5 to ministry provided to priests; do you recall that?
6 A. I wouldn't say - I'm not too sure whether they were
7 a ministry to priests, Servants of the Paraclete.
8
9 Q. So if I said to you that that was what the
10 organisation did, your answer would be, "I'm not too sure"?
11 A. That's true.
12
13 Q. So is it correct to understand that entry of "Servants
14 of the Paraclete" as perhaps a record of something that was
15 told to you by Father Lucas?
16 A. It could be, but I don't know.
17
18 Q. Are you able to assist in any other way as to how you
19 came to record those words "Servants of the Paraclete" on
20 or near that file note about you calling Father Lucas?
21 A. No.
22
23 Q. No?
24 A. No.
25
26 Q. Are you able to say whether the arrow that goes from
27 the word "Lucas" across the top of "Servants of the
28 Paraclete" indicates to you that this was a file note taken
29 by you in your discussion with Brian Lucas? Does that
30 assist? Have a look at the file note there. Do you have
31 it in front of you? The post-it note.
32 A. The post-it note? What date was it?
33
34 Q. I don't know where it appears in your actual diary.
35 A. Oh, here it is. I've got it.
36
37 Q. Do you have it there?
38 A. Yes. It was in May.
39
40 Q. Do you see that you have written, "Can you ring
41 Fr Brian Lucas"?
42 A. Yes.
43
44 Q. Next to the word "Lucas", there is a line with arrows,
45 one pointing to "Lucas", the other arrow pointing the other
46 way, and there appears to be written under it, "Servants of
47 the Paraclete"?

1 A. Yes.
2
3 Q. Then after the word "Paraclete", there seems to be
4 a line with an arrow down to the words "Dresses - him
5 down"?
6 A. Yes.
7
8 Q. Does that assist you to recall that those were notes
9 made by you when you spoke to Father Lucas or not?
10 A. No, it doesn't.
11
12 Q. You were asked whenever it was that you were first
13 called about the role of the vicar general. Would you
14 agree with the suggestion that the vicar general is someone
15 who must not be less than 30 years old and either have some
16 specialist training in canon law or theology or at least be
17 expert in those disciplines, as evidenced by sound
18 doctrine, integrity, prudence and experience in handling
19 matters? Would you agree with that as the prerequisite for
20 the appointment?
21 A. Yes, that's what canon law says.
22
23 Q. So to be appointed vicar general, you must either have
24 your training in canon law or at least be able to
25 demonstrate by sound doctrine, integrity and prudence the
26 ability to handle matters as required by the role?
27 A. True.
28
29 Q. Would you also agree with the suggestion that by
30 virtue of the office of vicar general, the vicar general
31 has the executive power of the whole diocese, which belongs
32 to the diocesan bishop by law?
33 A. When the bishop is absent.
34
35 Q. So you agree with the suggestion that I've made,
36 except that you would add the requirement that it is only
37 when the bishop is absent?
38 A. True.
39
40 Q. Do you agree that that power provides the
41 vicar general with the ability to carry out all
42 administrative acts except those which the bishop reserves
43 to himself or which require a special mandate by a bishop
44 at law?
45 A. True, and one of those would be laicisation.
46
47 Q. Can I suggest that the canons don't restrict your

1 ability to act in the executive power only to those
2 situations where the bishop is outside of the jurisdiction?
3 A. I think there is an agreement with most vicar generals
4 and the bishop that we act according to the mind of the
5 bishop.
6
7 Q. That's a different thing, and I'll bring you to that
8 point.
9 A. Good.
10
11 Q. Do I understand your evidence on that to mean that the
12 vicar general serves the bishop under a code of obedience
13 and therefore must act as directed by his bishop?
14 A. True. With the mind of the bishop.
15
16 Q. But the point I'm making to you is slightly different.
17 The point I'm making is that the canons do not restrict the
18 ability of the vicar general to act in the exercise of the
19 executive power or the administrative acts that it can do
20 to such time as that time when the bishop is outside of the
21 diocese; do you agree with that?
22 A. Yes.
23
24 Q. We have heard some evidence given about meetings that
25 you had with [AJ], firstly, and also at least a meeting
26 that you had with Sister Paula Redgrove and [AL]?
27 A. True.
28
29 Q. As I understand your evidence, you made no notes of
30 those meetings at the time?
31 A. True.
32
33 Q. You also had a number of conversations with [AJ]?
34 A. True.
35
36 Q. Do I understand your evidence to be that you made no
37 notes of those --
38 A. True.
39
40 Q. We've heard some evidence today about conversations
41 between you and Father Lucas from time to time about
42 McAlinden?
43 A. True.
44
45 Q. Is it accurate to say you made no notes of those
46 conversations?
47 A. True.

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Q. These matters concerning McAlinden raised concerns of the gravest nature against a priest; do you agree with that?

A. True.

Q. These were matters that, when they were brought to your attention, I think you indicated at least on first hearing what [AJ] had to say, you were horrified?

A. True.

Q. Was there a culture within your office at the time that led you to adopt a policy where you did not make notes of significant conversations and meetings that concerned allegations of misconduct against a priest?

MR CAVANAGH: Commissioner, it might be pedantic, but the phrase "a culture within your office at the time" - I'm not quite sure what that means. Is it this witness's office as vicar general or some other concept?

THE COMMISSIONER: Yes, "a culture within the office" - you will need to be more precise.

MS GERACE: Q. Were you ever told not to make notes of those meetings?

A. No.

Q. Was it a decision you took upon yourself not to record those significant meetings?

A. True.

Q. Was that motivated so as to avoid there being a record?

A. No, because I passed the information on to the bishop.

Q. So according to you, you felt no need to make any record of those conversations?

A. No, he got my record when I went to him and told him this, this, this.

Q. So as far as your evidence is concerned, there was no culture or policy or understanding that led you to not record these significant meetings?

A. No.

MR GYLES: I think the answer is "yes", isn't it, "there

1 was no". I think the answer "no" might indicate - I think
2 the answer should have been "yes", as I understand his
3 evidence.

4
5 THE COMMISSIONER: Yes, there was no culture.
6

7 Q. In other words, monsignor, were you agreeing with
8 Ms Gerace that there was no culture or policy?

9 A. There was none.

10

11 MS GERACE: Q. Monsignor, you gave some evidence about
12 the fact that when you were appointed vicar general, you
13 were also the administrator who was organising a synod, as
14 I understand it; is that right?

15 A. True. That was only a part of it, yes.

16

17 Q. Am I correct in understanding that that synod took
18 place in 1992/1993?

19 A. Correct.

20

21 Q. Whenabouts in 1993 had the synod concluded?

22 A. In 1993 the synod concluded at the end of November.

23

24 Q. November 1993?

25 A. Mmm.

26

27 Q. Is it correct to say that that synod was a process by
28 which engagement was undertaken to discuss the
29 implementation of Vatican II, as I understand it; is that
30 right?

31 A. Yes.

32

33 Q. You were asked some questions about the time when [AJ]
34 called you and then first came to see you, which we
35 understand from your diary notes you accept was in about
36 1993, on the dates that appear in your diary?

37 A. Yes.

38

39 Q. You were asked whether this was the first priest,
40 McAlinden, that you had had any involvement with, in the
41 Maitland-Newcastle diocese, who had been accused of
42 sexually abusing --

43 A. Yes.

44

45 Q. It was the case, was it not, that you had heard some
46 whispers about McAlinden beforehand?

47 A. True.

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Q. Was it also the case that you had yourself, on occasion, had to deal with an issue of suggesting inappropriate conduct by other priests within that diocese prior to [AJ]?

A. What do you mean by --

Q. I'm just asking generally whether, by this time in 1993, you had been a priest for some time - yes?

A. Yes.

Q. You agree with that. I'm suggesting to you that, by the time [AJ] came to see you, you were alive to the concerns about priests behaving inappropriately, were you not, as a matter to look out for in your role as vicar general - yes?

A. Sure, yes.

Q. You had also had some dealings yourself in dealing with another priest, had you not, back in the 1980s?

A. When I was at Toronto?

Q. Yes.

A. Yes.

Q. A priest came to live with you and you were asked to keep an eye on that priest, were you not?

A. True.

MR GYLES: I object. We're straying really beyond the bounds of relevance, in my respectful submission. He has admitted that he was alive to these concerns. As to the specifics of that, in my respectful submission, that is not of assistance to you.

THE COMMISSIONER: Yes. It would appear to be outside our terms, Ms Gerace.

MS GERACE: It was really just to clarify an answer given on the last occasion that McAlinden was the first priest. I just wanted to put in context that matter.

THE COMMISSIONER: Yes.

MS GERACE: In any event, I think the monsignor has given the evidence that he was alive to it and had dealings with those matters.

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THE COMMISSIONER: Yes. Thank you, Ms Gerace.

MS GERACE: Q. Can I ask you about becoming aware of the existence of [AL] and Sister Paula?

A. Yes.

Q. I'm sorry, I'll withdraw that and start again. I'm sorry, monsignor. When [AJ] came to see you in 1993, can I suggest that at that meeting she indicated to you that a nun, a Sister Paula, had spoken to her, who had concerns about the way McAlinden had dealt with [AL]?

A. True.

Q. So it was the case that at that first meeting in 1993, [AJ] mentioned to you Sister Paula?

A. She was there. Sister Paula was with her.

Q. Was with [AJ] at the first --

A. Oh, sorry.

Q. No, that was the meeting with [AL].

A. Sorry.

Q. So just to be clear, going back to the first time, you've had a call from [AJ] asking you if she can come and speak to you, and you arranged very swiftly for her to come in?

A. Yes.

Q. You saw her that afternoon?

A. That afternoon.

Q. I'm taking you back to then. I'm suggesting that during the conversation you had with [AJ] when she told you about her abuse, she also told you that she had been approached by a Sister Paula, who had concerns about the way McAlinden had dealt with someone else; do you agree with that?

A. I have vague memories of that.

Q. At that meeting, I'm not suggesting that you may or may not have known the name of [AL] but that [AJ] gave you some information that a Sister Paula had spoken to her about - that's what I'm suggesting - not about you knowing [AL]'s name necessarily but that at that first meeting, [AJ] said to you, "And Sister Paula has spoken to me about

1 another person that she has concerns about McAlinden"; do
2 you agree with that?
3 A. That sounds right.
4
5 Q. Can I also suggest to you that [AJ] provided to you
6 some contact details for Sister Paula?
7 A. That could be true.
8
9 Q. And that you indicated that you would then take those
10 matters to the bishop?
11 A. Yes.
12
13 Q. So do you have any recollection of going to Bishop Leo
14 and conveying to him some information about Sister Paula?
15 A. In the context of [AJ]?
16
17 Q. First, I think you've given your evidence you went to
18 Bishop Leo about [AJ]'s complaint?
19 A. [AJ], yes, true.
20
21 Q. What I'm asking you about is do you recall now whether
22 you also spoke to Bishop Leo about Sister Paula?
23 A. I did, but that was a month later.
24
25 Q. About a month later, was it, you spoke to him about
26 Sister Paula?
27 A. Yes.
28
29 Q. But you think that it could be true that [AJ] raised
30 this issue of Sister Paula at your first meeting?
31 A. That could be true.
32
33 Q. Is your recollection of meeting with Sister Paula and
34 [AL] that you've only had one meeting with Sister Paula and
35 [AL]?
36 A. Yes.
37
38 Q. And is your recollection that that did not occur in
39 1993 but occurred in 1995?
40 A. The second one, the second meeting.
41
42 Q. So did you have two meetings with Sister Paula?
43 A. When they came back the second time, about the
44 Philippines.
45
46 Q. So is it the case that you had one meeting with
47 Sister Paula and [AL] where she outlined her abuse?

1 A. Yes.
2
3 Q. And there was a second meeting with Sister Paula and
4 [AL], when she came back to express her concern about
5 Father McAlinden being in the Philippines?
6 A. In the 1995, yes.
7
8 Q. So there were two meetings. You talked about [AJ]'s
9 concern that there be a safe house for Father McAlinden.
10 A. Yes.
11
12 Q. The concern was expressed such that she wanted to make
13 sure that Father McAlinden had no further access to
14 children?
15 A. True.
16
17 Q. And she was very concerned --
18 A. She was.
19
20 Q. -- that he would be supervised?
21 A. Yes.
22
23 Q. Just to be clear on this, when it became apparent,
24 however the agreement was reached, that Father McAlinden
25 was to return to Ireland to live with his sister, can
26 I suggest that there were two concerns conveyed to you by
27 [AJ], the first one being that there would be no-one to
28 supervise him living with his sister; correct?
29 A. True.
30
31 Q. The second concern being that she did not believe that
32 Father McAlinden would continue to reside with his sister
33 in Ireland; is that right?
34 A. True.
35
36 Q. It's also the case, isn't it, that [AJ] at some stage
37 in one of those conversations told you that she believed
38 that he would stay there for a few months and then move on;
39 is that right?
40 A. True.
41
42 Q. And that is in fact what occurred?
43 A. That was.
44
45 Q. Almost precisely what occurred, isn't it?
46 A. It was.
47

1 Q. This was of grave concern to her?
2 A. Yes.
3
4 Q. And also of concern to [AL], as you subsequently
5 discovered?
6 A. True.
7
8 Q. Then information was provided to you by [AL] when she
9 discovered, before the church appeared to know, that
10 Father McAlinden was in the Philippines - yes?
11 A. True.
12
13 Q. And ostensibly operating as a priest?
14 A. True.
15
16 Q. Can I suggest that the discussions between you and
17 [AJ] about going to the police occurred in the context of
18 the concerns about Father McAlinden having left Ireland and
19 then going to the Philippines, and that was when discussion
20 commenced to take place between you and [AJ] about going to
21 the police?
22 A. Yes.
23
24 Q. And that it wasn't at the first meeting that you had
25 with her?
26 A. No - oh, it was. I told her to go to the police at
27 the first meeting.
28
29 Q. What I'm suggesting is that perhaps those
30 conversations occurred in the context of Father McAlinden
31 being in the Philippines and an expression of frustration
32 about what was happening with Father McAlinden then?
33 A. It was frustration.
34
35 Q. But I think you don't agree with the proposition that
36 you didn't raise the police at the first meeting?
37 A. I did.
38
39 Q. Could I talk about the process of laicisation. Were
40 you aware in 1995 that the process of laicisation required
41 Father McAlinden to participate in that voluntarily at that
42 time?
43 A. True.
44
45 Q. Were you also aware or had you formed a view in 1995
46 that Father McAlinden did not appear to be giving the
47 impression that he was going to participate in that

1 process?
2 A. Once again, by 1995 I wasn't really at the cutting
3 edge of all this, because there were other people playing
4 the games - oh, not playing games. See, Bishop Malone was
5 there and all of those.
6
7 Q. Is it your evidence that as at 1993 you had already
8 formed the view that Father McAlinden was a nomad, who
9 tended to disappear?
10 A. I used that word.
11
12 Q. That was certainly, from your experience of him then,
13 a pattern of behaviour you had observed in
14 Father McAlinden?
15 A. Yes.
16
17 Q. That was at 1993?
18 A. Yes.
19
20 Q. Finally, can I ask you to clarify some evidence you
21 gave about what you saw as your role either in the meeting
22 of the deans or as a consultant. Do you agree with the
23 suggestion that as a consultant, you had the ability to
24 provide advice to the bishop about how he should act in any
25 matter?
26 A. Yes.
27
28 Q. Do you also agree that you had the ability to raise
29 issues of concern with your bishop?
30 A. Yes.
31
32 Q. For discussion?
33 A. Yes.
34
35 Q. By him and by other members of the consultants?
36 A. Yes.
37
38 Q. Do you agree that as a member of the meeting of deans,
39 you had the ability to raise with your bishop concerns as
40 they affected the parish?
41 A. Yes.
42
43 Q. For discussion either directly with the bishop - yes?
44 A. Yes.
45
46 Q. And for discussion between the deans at the meetings?
47 A. Yes.

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MS GERACE: No more questions.

<EXAMINATION BY MR COHEN:

MR COHEN: Q. Monsignor, you were asked some questions about a couple of documents, which respectively were at tabs 220, 221 and 222. To avoid the cumbersome nature of going back into the documents, they were: a letter from McAlinden to the bishop; you responded in the bishop's stead when he was on the ad limina trip; and you provided a document also to Father Lucas for his comments as to the legal position. Do you recall that evidence?

A. True.

Q. You made reference in your evidence, when you were taken to the draft letter that went to Father Lucas and which ultimately was transmitted to McAlinden, to the word "protocol", and you said that was a reference to the suspension of faculties, didn't you?

A. True.

Q. Could it not be more likely that the reference to protocol was in fact a reference to the system that was the precursor in 1992 and 1993 to Towards Healing; isn't that right?

A. My understanding was that the protocol had been put in place of withdrawal of his faculties.

Q. Isn't it more likely that the protocol was the precursor to Towards Healing operative in 1992 and 1993?

MS LONERGAN: I object, Commissioner. The witness has already answered what he was referring to in his letter. That should be the end of the matter.

THE COMMISSIONER: I will permit you to test it a bit further.

MR COHEN: Thank you, Commissioner. I'm indebted to you.

Q. Do you have an answer?

A. I would interpret it the way that I've answered.

Q. You were also asked some questions, and I'll endeavour to do my best to recite them as accurately as I can. You will appreciate I don't have the transcript. A question

1 was put to you, and the gist of it was, as I recorded, that
2 you had no interest in the Lucas process, and your response
3 was that that was his task. You were asked - and, again,
4 this is the best effort I can provide - "Did you understand
5 that Lucas was to report back to [AJ]?" Your answer was,
6 "That seemed natural"?

7 A. Yes.

8
9 Q. Then you were asked, "Didn't you need to find out
10 about what the practice was?" Then you said, "I didn't go
11 down that track." That was the gist of your evidence,
12 wasn't it?

13 A. True.

14
15 Q. Was that an occasion by you of some wilful blindness?

16 A. No.

17
18 MR COHEN: Commissioner, I have no further questions.

19
20 **<EXAMINATION BY MR CAVANAGH:**

21
22 MR CAVANAGH: Q. Monsignor, you were asked some
23 questions earlier about the meeting with Sister Redgrove
24 and [AL].

25 A. Yes.

26
27 Q. Your recollection, as I understand your evidence, is
28 that you had a meeting with [AL] and Sister Redgrove at
29 a point in 1993?

30 A. True.

31
32 Q. Where were you physically based for the purpose of
33 being vicar general in 1993?

34 A. At the bishop's house.

35
36 Q. In 1993, did you have occasion to have meetings at the
37 presbytery in Hamilton in relation to the role that you
38 occupied as vicar general?

39 A. Meetings were held in Maitland at that time.

40
41 Q. I think Ms Gerace just asked you questions about two
42 meetings with Sister Paula and [AL]. Just to clarify that,
43 you said that you had a meeting with Sister Paula and [AL]
44 in 1993?

45 A. 1993.

46
47 Q. You had a later meeting with [AL], as I understand

1 your evidence, in 1995?
2 A. 1995.
3
4 Q. Is it your evidence that Sister Paula attended that
5 meeting?
6 A. No, I don't think she did.
7
8 Q. You were also asked some questions by Ms Gerace about
9 things you may have been told by [AJ] in the first meeting
10 you had with her in February 1993, and you gave answers
11 such as, "That sounds right", and, "That could be true".
12 Do you have an independent recollection of being told by
13 [AJ] that she conveyed information to you relating to
14 Sister Paula at that first meeting?
15 A. No.
16
17 Q. Do you accept the possibility that it might have
18 occurred?
19 A. Possibility, yes.
20
21 Q. But you have no independent memory of it having
22 occurred?
23 A. No, no recollection.
24
25 Q. You were asked some questions earlier today about
26 letters that were written to Father Castillo and the
27 apostolic nuncio in the middle of 1995.
28 A. Yes.
29
30 Q. Like Mr Cohen, I don't have a transcript, so I'm
31 basing my question on my note. You said something to the
32 effect that you telephoned the nuncio in Canberra for the
33 purpose of that nuncio getting in touch with his
34 counterpart in the Philippines and that Bishop Malone also
35 got involved in the conversation. When you say the phrase
36 "the conversation", do you intend to tell the Commissioner
37 that Bishop Malone had a discussion or do you mean
38 something else?
39 A. No, that I had a discussion. Because he was the
40 assistant bishop, in a sense, I thought I had a right to
41 tell him in the absence of Bishop Clarke.
42
43 Q. So any reference to a conversation was between you and
44 Bishop Malone?
45 A. Yes.
46
47 Q. In relation to the process of laicisation you've been

1 asked some questions about, do you understand that in
2 a laicisation process there are judges?
3 A. Yes.
4
5 Q. Who typically are those judges?
6 A. People that the diocese appoints. That's the way it's
7 done.
8
9 Q. Do you have any recollection of ever being appointed
10 as a judge in a laicisation?
11 A. No, no.
12
13 Q. I suspect Ms Lonergan might have asked this question,
14 but just to be sure. During your period as vicar general,
15 were you aware at any time of a police investigation in
16 relation to Father McAlinden?
17 A. No.
18
19 Q. Can you tell the Commissioner, to the best of your
20 recollection, when you first became aware of a police
21 investigation in relation to Father McAlinden?
22 A. When Bishop Leo --
23
24 Q. If you can try to do it by date, in the first
25 instance, by year?
26 A. It was when Bishop Leo told me initially that he had
27 been charged and got off on - I think it was in Western
28 Australia, wasn't it?
29
30 Q. Thank you. That means I've asked a very bad question.
31 I meant an investigation by police in New South Wales.
32 A. Oh, an investigation. No.
33
34 Q. Can you place it in the 1990s, in the 2000s, or you
35 just can't recall?
36 A. I don't think there were any police investigations.
37
38 Q. Have you ever done anything to consciously hinder or
39 obstruct a police investigation in relation to any priest?
40 A. No.
41
42 Q. Have you ever colluded with any person in relation to
43 an investigation into a priest?
44 A. No.
45
46 Q. You were nominally the vicar general until the end of
47 1995, I think, to 31 December 1995?

1 A. True.

2

3 Q. Bishop Malone was, I'm not sure of the term -
4 enthroned --

5 A. Installed, yes.

6

7 Q. -- installed in 1995. What was your role as
8 vicar general after his installation?

9 A. Gone.

10

11 Q. So was there any occasion when you were consulted for
12 advice by Bishop Malone after his appointment?

13 A. No.

14

15 MR CAVANAGH: Thank you, Commissioner.

16

17 MS LONERGAN: Commissioner, I tender two matters that
18 Mr Gyles examined upon. They are, first of all, behind
19 tab 253, a letter from McAlinden to Bishop Bantigue dated
20 16 July 1995.

21

22 THE COMMISSIONER: The letter from Denis McAlinden to
23 Bishop Bantigue of 16 July 1995, behind tab 253, will be
24 admitted and marked exhibit 140.

25

26 **EXHIBIT #140 LETTER FROM DENIS MCALINDEN TO**
27 **BISHOP BANTIGUE, DATED 16/07/1995 (TAB 253)**

28

29 MS LONERGAN: And behind tab 255, a letter from
30 Reverend Castillo to Monsignor Hart dated 29 July 1995.

31

32 THE COMMISSIONER: That letter by Reverend Castillo will
33 be admitted and marked exhibit 141.

34

35 **EXHIBIT #141 LETTER BY REVEREND CASTILLO TO MONSIGNOR HART,**
36 **DATED 29/07/1995 (TAB 255)**

37

38 MS LONERGAN: Could I ask just one question in
39 re-examination?

40

41 THE COMMISSIONER: Yes, Ms Lonergan.

42

43 **<EXAMINATION BY MS LONERGAN:**

44

45 MS LONERGAN: Q. Monsignor, you have given evidence to
46 the effect that you weren't aware of any police
47 investigation. Are you able to say why it is that you

1 believed that the police would pick up McAlinden from the
2 plane, in terms of what Bishop Clarke told you?

3 A. That's what Bishop Clarke told me and he expected,
4 which I in turn expected.

5
6 Q. Did that not lead you to the conclusion that the
7 police must be doing an investigation of McAlinden?

8 A. It was my understanding that that little committee had
9 set that up, that when he got off the plane he was going to
10 be arrested.

11
12 Q. Can we take it from your answer that that didn't lead
13 you to believe that there was an actual police
14 investigation going on at that time?

15 A. No, no.

16
17 MS LONERGAN: Thank you, Commissioner. Could the witness
18 be excused?

19
20 THE COMMISSIONER: Yes. Monsignor Hart, thank you very
21 much for your evidence and you are now excused.

22
23 <THE WITNESS WITHDREW

24
25 THE COMMISSIONER: I'll adjourn until 10 o'clock in the
26 morning.

27
28 **AT 4.20PM THE COMMISSION WAS ADJOURNED**
29 **TO WEDNESDAY, 24 JULY 2013 AT 10AM**

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