Dear Ms Crozier,

Inquiry into Handling of Child Abuse by Religious and other Organisations - COIN Submission No 11

The RCC’s Towards Healing, Melbourne Response & Financial Arrangements

COIN refers to the RCC’s currently operating private initiatives to settle claims by victims of clergy sexual abuse, ie, the “Melbourne Response”, operating in the archdiocese of Melbourne, and “Towards Healing”, operating in other dioceses in Victoria, and around Australia (“MR” and “TH”).

COIN confines this submission to one aspect only of MR and TH: the imposition of a $75,000 cap on compensation to victims in the context of the Church’s financial arrangements in Victoria, including its tax deductibility status. Although (as in the USA) details are not readily available to COIN, it may be confidently assumed that the Church enjoys significant wealth, in various forms, in Victoria alone, probably amounting to several hundred million dollars, if not billions. Nationwide, that wealth would certainly amount to billions of dollars.

Here, COIN assumes that the Committee will receive many submissions about the MR and TH and thus COIN does not detail here many criticisms received by it from victims about many aspects of these private church processes. COIN assumes that those victims will advise the Committee of their experiences with MR and TH. Suffice to say that COIN considers these internal processes objectionable in principle; points to their lack of accountability; and refers to and adopts the conclusion of Cummins J in his recently released report Protecting Victoria’s Vulnerable Children:

“... the fundamental is that the processing of crimes against children should be the subject of state process. The Melbourne Response is a private initiative. Its processes and procedures are not public. Second, if children come before it, there is no public scrutiny of its processes including whether the scrupulous care exercised by the criminal courts to ensure victims are not confronted personally by their abusers in the hearing, is or is not followed. Third, there is no public knowledge whether the consent given by children to the process is informed consent as contemplated by the law.”

COIN submits that the Committee should thoroughly investigate all aspects of the MR and TH; and that if these processes are to continue at all, they (1) must not be administered as an alternative to the criminal justice system; and (2) must be made fully accountable to the

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government and the public including all financial aspects, subject only to confidentiality wishes, if any, of victims.

RCC Financial Arrangements: by way of background information, COIN attaches an article 'Earthly Concerns', *The Economist* (August 18 2012) pp 19-22. This article describes a very worrying propensity in US Dioceses to reject financial accountability, shift assets to avoid paying compensation, seek bankruptcy for dubious reasons, corrupt internal financial practices, and disenfranchise unfairly, its own priests from their benefits upon retirement.

Questions arise whether the RCC in Victoria:

(1) should be made financially accountable and transparent to the Victorian public; and;
(2) can justify on financial grounds, especially given its significant assets, the abovementioned minimalist cap of $75,000 (previously $50,000) imposed in relation to settlements provided to victims in MR and TH.

COIN submits that the Committee, during this inquiry, should examine and report upon, as falling within its Terms of Reference focusing up the responses of religious organisations to sexual abuse:

(i) All assets held by all RCC Victorian dioceses or other associated church entities, however described or held, but including assets in the nature of real property, financial investments (whether held in or out of Victoria), cash deposits, property held in statutory or other trust entities (see COIN submission No 3) and like wealth;

(ii) the "tax deductible" charitable status of the RCC or its related entities in so far as Church finances are subsidised by the Victorian taxpayer, and the financial position of the Church generally, and/or of those agencies or entities have an impact upon the ability of the RCC generally, and of any particular diocese, to pay full and proper compensation to victims of clergy sexual assault, including any suggestion that the $50,000 cap is driven by RCC financial imperatives;

(iii) If that examination reveals unacceptable practices reflective of the situation in the USA, as described, for example, by the above *Economist* article, recommend that the Victorian and/or Commonwealth governments take appropriate action, especially in relation to taxation arrangements;

(iv) Recommend that, if the MR and TH are to continue in some form, the abovementioned cap of $75,000 lump sum compensation be abandoned either voluntarily by the RCC, or, if necessary, prohibited by legislation as leading to grossly inequitable and unjust results for victims;

(v) Recommend that, as in Ireland, a government controlled compensation Board be established to provide fair and just compensation to victims of RCC sexual abuse; and that all costs of such a Board, including establishment, staffing, administration and payment of compensation, be met entirely by, or substantially by, the RCC;

(vi) Recommend further examination of all RCC finances in Victoria by a further judicial inquiry.

Independent Judicial Inquiry: As previously stated, COIN considers that the Government's choice to refer the issue of the sexual assault of children by personnel associated with the Roman Catholic Church("RCC"), let alone by personnel from thousands of additional religious and other organisations, to a Parliamentary
Committee for inquiry and report is inadequate and unworkable. COIN favours the commissioning of a properly empowered, independent, judicial inquiry into this problem.

Accordingly, COIN considers your Committee to be a "first step" only towards the instigation of such a judicial inquiry. COIN thus recommends that the Committee, in its final Report, records and acknowledges its inadequacy; and recommends to government that such a further, independent judicial inquiry be forthwith commissioned.

Focus on the RCC: COIN considers that the Committee’s Term of Reference are unworkable if thorough examination of this significant problem, and well-founded recommendations to government, are to occur. The Terms of Reference embrace thousands of religious, and other, organisations and would require many years to pursue; yet the Committee is required to report by 30 April 2013. Second, COIN considers RCC clergy, and the Church’s hierarchy, to be the main perpetrators of sexual assault upon children and vulnerable adults in Victoria. Thus, in this submission, COIN focuses solely on the RCC, and encourages the Committee to do likewise, both as a matter of practical reality and in an endeavour to conduct a though, focused inquiry as compare to a superficial treatment of many organisations. COIN, in support of the above, refers to its Submission No 8 and the attached advice of Mr. R Miller of counsel.

Dr Bryan Keon-Cohen AM QC
President, COIN

Earthly concerns

BOSTON, NEW YORK AND SAN DIEGO

The Catholic church is as big as any company in America. Bankruptcy cases have shed some light on its finances and mismanagement.

Of all the organizations that serve America's poor, few do more good work than the Catholic church: its schools and hospitals provide a lifeline for millions. Yet even taking these virtues into account, the finances of the Catholic church in America are an unwholesome mess. The sins involved in its book-keeping are not as virulent as those on display in the various sexual-abuse cases that have cost the American church more than $3 billion so far; but the financial mismanagement and questionable business practices would have been widespread resignations at the top of any other public institution.

The sexual-abuse scandals of the past 20 years have brought shame to the church around the world. In America they have also brought financial strains. By studying court documents in bankruptcy cases—examining public records, requesting documents from local, state and federal governments, as well as talking to priests and bishops confidentially—the Economist has sought to quantify the damage.

The picture that emerges is not flattering. The church's finances look poorly coordinated, considering perhaps because of their complexity. The management of money is often sloppy. And some parts of the church have indulged in un小区 financial contortions in some cases—it is alleged—both to divert funds away from sex abuse intended by donors to frustrate mediators with legitimate claims, including its own nuns and priests. The dioceses that have filed for bankruptcy may not be typical of the church as a whole. But given the overall lack of openness there is no way of knowing to what extent they are outliers.

Thousands of claims for damages following sexual-abuse cases, which typically cost the church over $1m per victim, according to lawyers involved, have led to a liquidity crisis. This seems to have encouraged a pre-existing trend towards replacing dollars from the faithful with publicly raised debt as a way of financing church business. The church is also increasingly keen to defend its access to public healthcare subsidies whileclaiming a right not to provide certain medical services to which it objects, such as contraception. This increased reliance on taxpayers has not been matched by increased openness and accountability. The church, like other religious groups in America, is not subject to the same disclosure requirements as other non-profits or private entities.

Little is known about the Catholic church's finances outside America. In Morgan Chase’s recently closed the Vatican Bank’s accounts under pressure from the US Treasury. The Holy See has also struggled to get itself placed on lists of jurisdictions that are deemed to have strong anti-money laundering controls. This may reflect a lack of transparency—rather than a concerted attempt to hide anything, though documents leaked by Pope Benedict XVI's former butler to an Italian journalist suggest that maladministration in the Vatican goes beyond mere negligence. But America, at least thanks to its bankruptcy procedures, provides a slightly clearer window on the church’s finances. And America is so important to the church that it merits particular examination.

Only three countries—Brazil, Mexico and the Philippines—have larger Catholic populations than America, and nowhere else has a large Catholic minority. Almost 200 American, a third of the nation, have been baptised into the faith and are identified themselves as Catholic. In India, the Catholic minority and a large expatriate population from Rome, encountered America’s Catholics to create a separate society. In the 19th and 20th centuries, with the result that there are now over 6,200 Catholic schools (25% of the national total), 279 hospital (46% of the national total) and 244 colleges and universities. Many of these institutions are known for excellence; some of the leading academic and business schools programmes in America. The Catholic schools are run by Jesuits. A question that has been particularly troubling is whether these institutions are subject to the oversight of a bishop or a religious order.

The Economist estimates that annual spending by the church and its entities is around $30bn. It's rare that we publish a story about a $30bn company.
colleges, with parish and diocesan day-to-day operations accounting for just 6% and national charitable activities just 22% (see chart). In total, Catholic institutions employ over 1 million people, reckons Fred Gluck, a former McKinsey managing partner and co-founder of the National Leadership Roundtable on Church Management, and an organisation seeking to improve the way the church is run. For purposes of secular comparison, in 2006 General Electric's revenue was $200 billion and Walmart employed roughly 1.5 million people.

The church is the largest single charitable organisation in the country. Catholic Charities USA, its main charity, and its subsidiaries employ over 65,000 paid staff and serve over 10 million people. These organisations distributed $4.2 billion to the poor in 2009, of which 62% came from local, state and federal government agencies.

The American church may account for as much as 60% of the global institution's wealth. Little surprise, then, that it is the biggest contributor to head offices (shed of Germany, Italy and France). Everything from renovations to St Peter's Basilica in Rome to the Pontifical Gregorian University, the church's version of West Point, is largely paid for with American money.

Where that money comes from is hard to say (the church does not release numbers on this either). Some of it is from the offerings of the faithful. Anecdotal evidence suggests that America's Catholics give about $10 per week on average. Assuming that one-third attend church regularly, that would put the annual offering income at around $10 billion. More comes from elite groups of large donors such as the Papal Foundation, based in Pennsylvania, whose 136 members pledge to donate at least $5m annually and Legatus, a group of more than 5,000 Catholic business leaders that was founded by Tom Monaghan of Domino's Pizza. Not bad.

There is also income from investments. Timothy Dolan, the president of the United States Conference of Catholic Bishops (uscob), and Cardinal Archbishop of New York (see "corporate sponsors", meaning a legal entity consisting of a single incorporated office, occupied by a single bishop, believed to be the Manhattan archdiocese's largest owner, if one includes the parishes and organisations that come under his jurisdiction). Another source of revenue is local and federal government, which funds the medical services and mental health of patients in Catholic hospitals. The cost of educating poor in Catholic schools and halls to students attending Catholic universities.

Wages and salaries at Catholic schools and rates of children by priests in America totalled at least $33 billion in 2008. Over the past five years, $10 billion of that in California. The total is likely to increase as more perpetuity the pool of very cheap labour that the church has relied on. Dioceses increasingly need to pay people market rates to get jobs done that were previously assigned to clergy and members of religious orders. This pushes running costs up.

On the revenue side, donations from the faithful are thought to have declined by as much as 20%. The scandals probably played a part in this; few people want to donate money that will go to clearing up the damage done by predatory priests. But many in the church also feel that competition for charitable dollars has increased.

Over the past eight years, a combination of these stresses has driven eight dioceses (including San Diego, Tucson and Milwaukee) to declare bankruptcy, as well as the American arm of the Irish Christian Brothers and a regional branch of the Jesuits. More of America's 430 dioceses would be forced to do the same. Efforts are underway in the legislatures of Arizona, Illinois, New York, Florida, Wisconsin, Minnesota, Colorado, Pennsylvania, Ohio and California (etail) to extend statutes of limitations, according to Mr Anderson, a law that represents many victims of abuse. If any of these efforts succeeds, the expectation among lawyers like Mr Anderson is that some of the affected dioceses would seek Chapter 11 protection while they attempt to settle the cases. (Budded dioceses generally settle suits just before the bishops are due in court.) The diocese of Honolulu could be the next to go bankrupt. In May it was hit by a pair of new lawsuits after the extension of Hawaii's statute of limitations for victims of abuse.

Various sources say that Cardinal Dolan and other New York bishops are spending a substantial amount—estimates range from $230 million to $400 million—lobbying the state Assembly to keep the current statute of limitations in place. The church's lobbying has been particularly effective. It has brought the state's bishops together, sent a letter to California's Assembly opposing a bill that would extend the statute and require new, tougher background checks on church workers.

Some dioceses have, in effect, raided priests' pension funds to cover settlements and other losses. The church regularly collects money in the name of priests' retirement. But in the dioceses that have gone bust lawyers and judges conclude that those funds are commingled with other investments, which makes them easily diverted in other ways. Under Catholic Church law, the archdiocese of Boston contributed nothing to its clergy retirement fund between 1996 and 2002, despite receiving an estimated $12m-20m in Easter and Christmas offerings that many parishioners believed would benefit retired priests.

Church officials denied the money it had collected was improperly diverted. By 2008 the unfunded liability had reached $1.43bn. Joseph D'Arrigo, a beneficent specialist, was brought in to turn things round. In 2007 the retirement fund was turned into an independent trust to which it could not be used for other purposes. For that an American diocesan, Mr D'Arrigo.

The retirement funds for Washington, Delaware, were largely lost when it settled abuse claims for $17m in February 2014. Those funds had been tossed into a pooled investment account that also com
tained parish investments and funds for cemeteries and the education of seminarians. The Eastern United States province of the Passionists, a missionary order, has diverted retirement funds to cover operating expenses. In a bid to stave off bankruptcy, it has sold off property, including a 14-acre piece of New York waterfront, and made an unsuccessful investment in a Broadway show, "Leap of Faith," it flopped.

In a public company, this type of thing would attract regulatory scrutiny. In the church, retirement is still largely in the gift of the bishop. Retirement plans for priests are typically set up as diocesan trusts rather than proper pension funds with structured benefits. They do not fall under the Employee Retirement Income Security Act of 1974, the law that establishes standards for plan trustees and remedies for beneficiaries, including access to federal courts. Priests thus have no recourse to law if they are hard done by. No, as a matter of course, can they take their pensions with them if they leave for another diocese.

Richard Vega, who recently stepped down as president of the National Federation of Priests' Councils, estimates that 75-80% of clergy pension schemes in America are underfunded. He says that only a small minority of priests will have set aside enough of their net average salary of $25,000 a year to cover themselves. Others will be less fortunate.

The clergy and its creditors

The principle of separation between church and state in America means that religious groups are not required to file tax returns, list their assets or disclose basic facts about their finances. Some dioceses do not publish accounts, but these tend to provide an incomplete picture. Though lawyers for dioceses facing bankruptcy have fought to keep most financially sensitive documents sealed, the process is too broad for church officials.

The documents that have been discovered reveal that in some instances, church officials have avoided disclosing the full extent of diocesan funds. One diocesan account report in 1991 showed that the father of the late Archbishop Philip M. O'Brien, who died in 1994, had a $15.6 million account at a bank in the Archdiocese of Atlanta. When the account was closed, the balance was transferred to an account in the name of the late bishop's daughter, who donated the money to charity.

The documents, which are part of a bankruptcy case involving the Archdiocese of Atlanta, were sought by lawyers for creditors who are seeking to protect their interests. The lawyers are trying to determine the full extent of the church's assets and liabilities, and to ensure that any proceeds from the sale of the Archdiocese are distributed fairly to creditors.

An uncertain route to financial salvation

Now in bankruptcy, some dioceses have raised questions about the ability of the archdiocese to meet its financial obligations. Some creditors are concerned that the archdiocese may not have enough assets to cover its debts, and are calling for a thorough investigation of the archdiocese's finances.

In the meantime, the archdiocese is working to find a solution that will allow it to continue operating. The archdiocese is exploring options such as the sale of assets, the reduction of expenses, and the negotiation of a plan with creditors.

One option that has been discussed is the sale of the archdiocese's property, which includes a large church in Atlanta and a number of smaller parishes throughout the state. The sale could bring in a significant amount of money, which could be used to cover the archdiocese's debts.

Another option is the reduction of expenses, such as the closure of some parishes and the elimination of certain programs. These reductions could save the archdiocese a significant amount of money, which could be used to meet its financial obligations.

The archdiocese is also exploring the possibility of negotiating a plan with creditors. This plan could include a variety of measures, such as the extension of payment deadlines, the reduction of interest rates, and the consolidation of debt.

Ultimately, the archdiocese will need to find a solution that works for all parties involved. The archdiocese's creditors, the archdiocese, and the archdiocese's bishops will need to come together and work to find a way forward.

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The Archdiocese of Atlanta is currently working with creditors to develop a plan for the resolution of its financial obligations. The archdiocese is committed to ensuring that its financial obligations are met in a fair and equitable manner, and is working to find a solution that will allow it to continue operating.

In the meantime, the archdiocese is exploring a variety of options, including the sale of property, the reduction of expenses, and the negotiation of a plan with creditors. These options will be discussed with creditors in the coming weeks, and a plan will be developed that is fair and equitable for all parties involved.

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The Archdiocese of Atlanta has filed for bankruptcy protection in the United States Bankruptcy Court for the Northern District of Georgia. The archdiocese is currently working with creditors to develop a plan for the resolution of its financial obligations. The archdiocese is committed to ensuring that its financial obligations are met in a fair and equitable manner, and is working to find a solution that will allow it to continue operating.

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then its insurance policy has been listed as an asset. Not so those of the Catholic Mutual Group (CMG), which stepped up its tally of die-hard Catholic dioceses in the mid-1980s—a time when liability insurance became too expensive as a result of the increase in sexual abuse claims. Since the CMG is technically not an insurance company but a voluntary religious "mutual benefit society," its policies do not have to be disclosed as assets in a bankruptcy proceeding, even though it contributes substantial funds towards settlements.

One way to reduce costs is to reduce the number of parishes. There are two ways to do this. The first is to merge one parish with another parish and combine their buildings, congregations and finances. The second, more controversial way is to "suppress," the parish, which involves the transfer of all of the assets to the bishop, who reassigned parish priests as he sees fit. The funds in the parish bank accounts are placed in the general treasury of the diocese, as are the proceeds of a land sale, none of which is subject to disclosure.

Faced with shortfalls in Boston (where he was a temporary administrator) and later in Cleveland, Bishop Richard Lennon suppressed dozens of parishes as part of his "realignment" plans for each of the two archdioceses: given the pervasive remodeling of accounts, some of the money thus accumulated could have gone to pay operating expenses and, at least in Boston, court settlements.

The parishioners were unimpressed. Some heckled the bishop when he visited their parish to celebrate Mass. One of the Boston priests, St. Francis Cabrini in Solunte, Massachusetts, has been occupied for the past eight years by parishioners who have refused to accept the closure. They have a priest here to ensure at least one person is at the church at any time, so that the archdiocese can't make the lock.

Some parishes have filed appeals to Rome. In an unusual move in March, the Vatican suspended the diocesan office of the parishes that Bishop Lennon had suppressed.

As well as questionable financial management, the church also suffers from fraud and embezzlement, according to San Bernardino, expert in Catholic finance and author of "Weaver with a Plumb Bob." The Federal Office of Money in the Catholic Church. In March, the former head of the financial office of the archdiocese of Philadelphia was convicted and sentenced to 10 years in prison, and fined $15,000 for stealing $300,000.

Their parishes, thousands of them, have been disrupted by the financial crisis. The Diocese of Dallas suspended 15 priests in 2008 for sexual misconduct. In the corporate world, those who committed such malfeasance might face higher authority. But priests make unlikely whistle-blowers. It's a hard thing for them to imagine a life outside holy orders, which is why they alienated the bishop who has a hold over their salary, pension and private life. Would-be whistle-blowers will also be aware that local and federal authorities are loath to investigate mainstream religious groups for fear of the political consequences. Assistant United States attorneys in two different federal districts have pushed the see to investigate concealment, coercion and financial mismanagement in parts of the church but have got nowhere.

The taxpayer as good Samaritan

Growing financial pressures have encouraged the church to replace donations from the faithful with debt. According to figures from the Municipal Securities Rulemaking Board over the past decade, state and local authorities have issued municipal bonds for the benefit of at least 35 dioceses in almost 30 states to pay for the expansion and renovation of facilities that would presumably have been largely paid for through donations. Overall church munib debt has increased by an estimated 80% over that period. At least 75 bond issues are currently outstanding.

California is the biggest borrower. Although funding for religious groups is prohibited under the state's constitution, a series of court rulings has opened the door to bond issues. Catholic groups there have raised at least $2 billion through munib bonds over the past decade. Of that, some $2 billion went to hospitals, as one case, in San Jose, the money went to buy chancery offices for the bishop.

The dioceses back their bonds with letters of credit from banks. Among the most active guarantors are Allied Irish Banks (AIB), US Bancorp and Wells Fargo. None of the banks was prepared to discuss the financial terms of these contracts.

Muni bonds are generally tax-free for investors, so the cost of borrowing is lower than it would be for taxable issues. In other words, the church enjoys a substantial and more common advantage with local governments and public projects. If the church has issued more debt in part to meet the financial strain caused by the scandals, then the American taxpayer has indirectly helped mitigate the church's losses from its settlements. Taxpayers may end up on the hook for other costs, too. For example, settlement of the hundreds of possible abuse cases in New York might cause the closure of Catholic schools across the city.

It is not wrong for churches to issue bonds. But, like many other aspects of the Catholic church's finances, this should be more transparent. It is quite possible that church finances are, as a whole, not as bad as the details coming out in bankruptcy cases suggest. Dioceses and religious orders that go bankrupt cannot be assumed to be representative. If so, then showing better management in the rest of the church would do a lot to win concern.

And increased openness might have the added benefit of bringing in the acumen of a knowledgeable and concerned layperson.

Some influential Catholics are keen to see better management and more openness and accountability. Leon Panetta, America's defense secretary, called for oversight of church finances when he was a director of the National Leadership Roundtable on Church Management, a position he relinquished in 2009 to become director of the CIA. Faced with competition from other churches and diocese, from the behaviour of some of its priests, there has never been a more important time to listen to such calls and to invite the help and scrutiny that the church's financial practices need.