

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Inquiry into the handling of child abuse by religious and other organisations

Melbourne — 20 May 2013

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Witnesses

Archbishop D. Hart, and

Mr F. Moore, Executive Director, Administration, Catholic Archdiocese of Melbourne.

The CHAIR — Good afternoon everybody. In accordance with the guidelines for the hearings, I remind members of the public gallery that they cannot participate in any way in the committee's proceedings. Only officers of the Family and Community Development Committee secretariat are to approach committee members. Members of the media are also requested to observe the media guidelines. I ask that you all ensure that your mobile telephones are turned to silent or switched off.

On behalf of the committee I welcome Your Grace, Archbishop Denis Hart, from the Catholic Archdiocese of Melbourne, and also Mr Francis Moore, Executive Director Administration from the Catholic Archdiocese of Melbourne. Welcome to you both. All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act, attracts parliamentary privilege and is protected from judicial review. Any comments made outside the precincts of the hearings are not protected by parliamentary privilege. Witnesses may be asked to return at a later stage to give further evidence if required.

All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript. Please note that these proceedings are not being broadcast. The four cameras are for the current PAEC hearings that are also being conducted by the Victorian Parliament.

Before we start, I would like to provide you with a brief overview of the committee's inquiry to date. I would also like to give you a sense of the evidence that we have heard during the inquiry process. There are two reasons for this: one is to understand that we are looking broadly at non-government organisations that work directly with children in the context of handling child abuse and the processes we adopted to do this; the other is to gain an appreciation of the reasons that we have called a number of witnesses from the Catholic Church.

As part of our inquiry planning, we established support for victims who we anticipated would want to participate in this process. We also developed a parallel process to ensure we did not encroach on the responsibilities of either the police or the courts. This included a referral pathway for any potential criminal matters that our advisers thought victims might want to be investigated by the police.

The inquiry was announced by the government on 17 April 2012 and commenced on 16 June 2012 with a call for submissions. Shortly afterwards we released a guide for those wishing to make a formal submission to the inquiry. Initially the committee set a closing date for those submissions of 31 August 2012. We had an overwhelming response from the public, receiving hundreds of submissions. We also had many requests for more time, given the difficulties victims had in revisiting some of these traumatic events, so we extended the closing date to 21 September 2012, and we have continued to receive submissions on a case-by-case basis from both individuals and organisations. To date, we have received 405 submissions, and large numbers of supplementary submissions by those who have already submitted. Of the submissions received, 61 were from organisations. The remaining 344 were from individuals, of which approximately one-third are confidential or have requested we withhold their name. We have made a decision as a committee to receive no further submissions after 7 June 2013 to enable us to thoroughly consider the wealth of information we have received so far and to start our deliberations on findings and recommendations emerging from this inquiry.

We started our hearing process on 19 October 2012. Next week will be our final scheduled public hearing for the inquiry, when we will hear from Cardinal George Pell. We had requested to hear from Bishop Mulkearns, following hearing evidence from the Ballarat diocese. On our request, an independent neuropsychological assessment was undertaken by Dr Nathaniel Popp. As a consequence, the committee is satisfied that Bishop Mulkearns does not have the capacity to provide reliable evidence regarding the circumstances when he was bishop in Ballarat at that time. The committee has a number of existing documents available for consideration that will assist us in our deliberations relating to that matter.

The committee has held more than 160 hearing sessions. This includes 45 organisations that have appeared in public hearings from a range of religious and other non-government organisations. The remaining hearings were sessions with those who asked to appear before the committee to tell of their experiences. These included victims, their families, whistleblowers, experts, and other professionals. Of these, slightly more than half were heard in public, with the remainder of the hearings held in camera.

The committee has travelled regionally to hear from those individuals who have asked to appear before the inquiry and who do not live in Melbourne. We visited Ballarat twice, we have visited Geelong and also Bendigo.

In all the evidence we received, both in hearing sessions and in written submissions, the overwhelming majority of the material has been from individuals who have come into contact with the processes of the Catholic Church in its handling of child abuse. For this reason, we considered it important to hear a comprehensive perspective from the various orders and dioceses of the Catholic Church.

In view of this we have a number of questions for you today, and as you are aware, under our terms of reference, we have been requested to look at policies and procedures within religious and other non-government organisations, at whether there are systemic practices within those organisations that prevent reporting to appropriate authorities or have contributed to the abuse of children and at whether changes to the law or to practices, policies and protocols are required to prevent the criminal abuse of children in Victoria into the future.

We received the *Facing the Truth* submission last year, and a further submission from you last Thursday was submitted to the secretariat. Thank you very much.

Following questions by the committee you will have an opportunity to make a statement. You have with you Mr Francis Moore. For the committee's information, could you also please inform us who else you have with you today, Archbishop Hart?

Archbishop HART — Thank you, Madam Chair, and thank you, everyone. In the front row is Sister Kath Tierney from Catholic Religious Victoria; Sister Veronica Hoey, next to her, is the chair of Catholic Religious Victoria; Monsignor Greg Bennet is my vicar-general; Mrs Vicki Russell looks after pastoral care from the vicar-general's office; and Father Joe Caddy is the executive director of CatholicCare.

The CHAIR — Thank you very much for that confirmation. Again, thank you both very much for your participation and for allowing the committee access to a number of documents, which we have been able to review.

As we have discovered through the course of this inquiry, the structure of the Catholic Church is somewhat complex. Some witnesses have come forward and said that that complex structure could be seen to be convenient. Therefore what I would like to first of all understand from you today is: you are appearing before us as the Archbishop of the Melbourne Archdiocese; do you speak today only as the head of one of the four dioceses within Victoria, or do you speak on behalf of all of the four signatories to *Facing the Truth*?

Archbishop HART — I speak on behalf of the Archdiocese of Melbourne, which is the largest diocese in Victoria, and because it has the capital city, it is called an Archdiocese. My evidence today will solely refer to the Archdiocese of Melbourne.

The CHAIR — Thank you very much. So who does, therefore, speak on behalf of all the Catholic Church within Victoria?

Archbishop HART — Each bishop is responsible for what happens in his diocese. Each religious superior — the Sisters of Charity and the Sisters of Mercy — the superior of each of those orders, is responsible for what happens in their areas.

The CHAIR — So there is actually nobody per se in charge of the Catholic Church structure here in Victoria?

Archbishop HART — Not in the way the church is structured, no.

The CHAIR — Could I next go to clarifying some of the roles and responsibilities from your perspective, Archbishop Hart? Could you confirm to the committee how long you have been in this position?

Archbishop HART — I was appointed Archbishop of Melbourne on 22 June 2001, having previously been the vicar-general since 1 September 1996. Prior to that time I did not have a position of authority in the diocese.

The CHAIR — What was your role prior to 1996?

Archbishop HART — I was the parish priest of West Brunswick.

The CHAIR — Thank you. As the leader of the Catholic Archdiocese here in Melbourne, I expect you understand that parents have children attending a number of Catholic education facilities and have put their trust in your parish environment within this Archdiocese. Do you see that, as part of your role, you have a responsibility of care to those children as well?

Archbishop HART — Certainly. I have a responsibility for the parishes, the schools and the institutions in the Archdiocese which interface with the people of the diocese. That is my role as chief pastor: to teach, guide and care for them.

The CHAIR — Is there anybody else who has responsibility for those children apart from yourself within those facilities within the Melbourne archdiocese?

Archbishop HART — In the individual schools it would be the principal of the school and the parish priest. In Victoria the employer for schools is the parish priest. It is different in New South Wales.

The CHAIR — Within that school structure if a teacher had a concern, would they automatically go to the parish priest to speak of their concern, or would they come to you?

Archbishop HART — They would normally go to the parish priest, and I would expect that they would inform the Catholic Education Office. I realise that there are requirements of law of mandatory reporting for teachers, and the protocol expects exactly that they would do that too.

The CHAIR — Thank you. We have heard from a number of witnesses and from teachers working in parish schools that they feared the consequences of raising concerns about questionable behaviour of parish priests. How do you ensure the protection of those whistleblower teachers?

Archbishop HART — I would expect that those matters could be reported to the Independent Commissioner, where they would be dealt with impartially, fairly and totally independently.

The CHAIR — So do you think that process has failed —

Archbishop HART — No, I do not think it has failed.

The CHAIR — In protecting those whistleblowers?

Archbishop HART — I always think there is room for improvement, but I do think one of the things we want to do together as community and church is really to identify how we can do things better. I want to say that we are part of that; we are right with you.

The CHAIR — Thank you. Could you explain, therefore, to the committee what your regular interactions are with parish priests — not in great detail, just in an overall capacity, if you like.

Archbishop HART — Melbourne is a big diocese. We have 216 parishes. I am helped in the administration of the diocese at the central and contact level and relationships with priests by Monsignor Bennet. There are also normally four bishops who help me and who undertake regular visitations to parishes, not merely for confirmations and things like that but for keeping an eye on what is going on. We visit the schools, we visit the churches, we talk to the parishioners. It is pretty clear that, while the parish priest is the holder of an office and is expected to carry out that office in accordance with what the scriptures, the teaching of the Church, the Code of Canon Law and the practices that the diocese require, there is sufficient interaction to make sure that there is adequate supervision and that if something is going on that should not be, it will pretty quickly come to notice. Those regular contacts are maintained.

The CHAIR — So you have a significant role in that process or interaction, then?

Archbishop HART — Yes, certainly.

The CHAIR — Do you decide on the placement and duties of the parish priest?

Archbishop HART — Ultimately I do. I have the reliable assistance of the vicars, the bishops and the Vicar General, but we also have a Personnel Advisory Board, a group of a range of priests who will obviously in their

own way be in touch with priests, and they would normally present recommendations concerning who might be appointed parish priest of X or Y. So there is the information that I have, there is the information that the bishops have from moving around their regions and there is the information that their fellow priests have.

The CHAIR — Is there anyone else on that advisory board, apart from a number of priests?

Archbishop HART — No. It is a priests advisory board.

The CHAIR — Only priests. Do you also decide on the living conditions of those priests?

Archbishop HART — We normally require that priests live in a parish house or a parish residence approved by the diocese, and we try to make sure that the living conditions are appropriate, appropriately looked after and appropriately secure.

The CHAIR — When it comes to a priest's pay or payments made to them, how and by whom is that determined? Is that part of your role, or is that more of an administrative role?

Archbishop HART — It is more of an administrative role. Basically, priests as the holders of an office have a — they are provided with board and lodging, and they are provided with a car for the use of the ministry, but their actual stipend for personal use is scheduled according to a scale whereby there is so much a quarter given to all priests. There is an arrangement which is supervised not by me but by the committee of the Priests Remuneration Fund, which makes sure that priests are adequately supported.

The CHAIR — So you are telling me that you have an input into their living conditions but not their pay. Is that correct?

Archbishop HART — Ultimately I approve their pay, but there is a tremendous amount of input and work. That would be right, Mr Moore, wouldn't it?

Mr MOORE — Yes. Yes, Your Grace.

The CHAIR — Thank you. What about for retired priests? Is that also a responsibility that you undertake?

Archbishop HART — Ultimately I do make provision for the retired priests, but, as we have a Priests Remuneration Fund to look after the priests who are working, we have a Priests Retirement Foundation, which sees that retired priests are provided with appropriate accommodation, are fed and so on. That fulfils the responsibility from the church; every bishop has a requirement to provide a minimum living support for all priests, regardless of who they are.

The CHAIR — On that fund or foundation, is there anybody else in that foundation that makes those decisions or again is it just priests?

Archbishop HART — The Priests Retirement Foundation also has a number of lay advisers.

The CHAIR — And are they within the archdiocese of Melbourne? Is that part of Mr Moore's role or is it others?

Archbishop HART — Mr Moore is part of that role.

The CHAIR — And who else would be on the foundation or fund?

Archbishop HART — Can you help me, Mr Moore?

Mr MOORE — Ms Crozier, on the committee of the Priests Retirement Foundation we have a legal representative, we have a financial representative; there are a number of active priests, and they make decisions in relation to the support of retired priests.

The CHAIR — So the legal and the financial representatives are the ones advising Archbishop Hart in relation to those aspects that he has to deal with with those retired priests. Is that correct?

Mr MOORE — No. What there is is a committee that includes as members a member with legal experience, a member with financial experience. Those committees typically have responsibility for the financial support of retired priests. The committee can make recommendations to the archbishop from time to time, and that has occurred. On receipt of those recommendations, he comes back to the committee with his own view about the matters that are put to him.

The CHAIR — Can you give us an example of those recommendations that they might make to one of those retired priests?

Mr MOORE — Some of those matters include the variety of residential settings in which retired priests might live. So typically priests of the archdiocese retire somewhere around the age of 75. On retirement most would like to go into a private residential setting. As they get older and their health declines, they need to move into supported accommodation, so that might be into independent living units, it might be into a retirement village, it might progress into hostel accommodation and then it might progress into high-care accommodation. So as the ageing profile of the priest changes, we need to alter the mix of that accommodation. If accommodation needs to be acquired, it needs to be supported by the archbishop.

The CHAIR — The support that you provide for the priests, is that also for priests who are on leave from the archdiocese? Is that what you have responsibility for too?

Archbishop HART — We certainly provide a minimal level of support for priests who are on leave, and that is part of my responsibility as a bishop. Madam Chair, I would just add one other point — and I think it is important — about the support of priests. In addition to what is done in terms of finance and housing, we have a priest appointed full time for ministry to priests, and he is accompanied by a priest care team — two or three nurses — who look at the conditions of living of priests, and particularly as priests age, and see that their medical and other needs are met. So they are not just left on their own.

The CHAIR — And do you have responsibility for disciplinary measures that need to be undertaken with priests, Archbishop Hart?

Archbishop HART — Certainly.

The CHAIR — So you have a direct involvement with that, with discipline?

Archbishop HART — Certainly, yes.

The CHAIR — I just want to take you to an article that you probably recall that was printed in the *Age* of 6 June 2012, and it was about abuse conducted by a priest, Father Rubeo, which was reported to your archdiocese in 1994. I am sure you are aware of that case and that article that was printed in last year's *Age*. And what was revealed in that article — and I will read this from the article — was actually:

The notes show Rubeo offered to resign. But his offer was not accepted and he continued to work in the parish in Boronia, with parishioners unaware of his criminal admissions to Cudmore. Astonishingly, Cudmore oversaw the appointment of Father Francis Klep as spiritual director to Rubeo in September 1994. At that time Klep was facing charges of child molestation and was convicted months later. However, his counselling role to Rubeo continued.

I understand that during that period the arrangement was supervised by the then vicar-general. What comes out in this article is a pretty obvious question: how could a paedophile in the form of Father Klep act as a spiritual director to another paedophile?

Archbishop HART — The report in the *Age*, Madam Chair, is incorrect to the extent that when the complaint was first notified on 10 August 1994 there was a request for counselling and spiritual direction. That counselling was arranged by the vicar-general. The spiritual direction, however, was chosen by the person himself, so we did not appoint that priest, Klep, to undertake the role of spiritual director.

The CHAIR — So why does a priest have the ability to choose a spiritual advisor?

Archbishop HART — That is the normal practice in the church, of the spiritual freedom of people — not someone who is in charge of them but someone who will give the benefit of their spiritual advice. Of course I know it does not look well in the light of later events — and I would be the first person to say that — but the freedom is there and he made that choice.

The CHAIR — I would certainly agree with you in relation to that, because I believe the Independent Commissioner also noted that in a letter to the victim who was named in that article that he in fact also reiterated that that was the case — that it was up the priest to take on a spiritual adviser, despite the fact that he was a paedophile. A spokesperson made a comment in relation to the article — and I will just go to it again — saying:

A spokesman for the archdiocese admits the response, viewed by today's standards, was inadequate.

Were you aware that this statement by your media spokesman was going to be undertaken?

Archbishop HART — When was that, please?

The CHAIR — It was June of last year, in relation to the article regarding Father Rubeo and Father Frank Klep.

Archbishop HART — I do not remember being aware of it.

The CHAIR — So you were not consulted at all before that spokesperson — —

Archbishop HART — I would have to honestly say that I do not remember.

The CHAIR — In hindsight do you think it was an adequate response after all that was reported, even though you are saying it is inaccurate?

Archbishop HART — I think it was highly inappropriate for a person to choose someone of those proclivities, and it would have my fullest condemnation.

The CHAIR — I just want to go back to that letter that I was referring to, because the Independent Commissioner also wrote, almost a month later, to the person in question who is related in that article. He also goes on to say:

Why did the late vicar-general Gerald Cudmore appoint Father Francis Klep as spiritual director to Father Rubeo in 1994 and 1995, even though Klep had been charged and later convicted of child sex offences?

The spokesman's response was:

The records of the archdiocese record Rubeo informing Monsignor Cudmore that he was seeing Father Klep as a spiritual director. The choice of a spiritual director is made by the person seeking spiritual direction —

as we have just undertaken.

In light of all of this it seems that it is an insufficient answer and an insufficient process for many of these people who are coming before us, and it gives no confidence to anyone if it is still being undertaken, and the spokesperson undertook the response in relation to this whole issue of June last year; it was last year — it was not 1994. Have you got anything you would like to say to that?

Archbishop HART — I would certainly say that I believe that to allow that man to be spiritual director was quite wrong and quite harmful. I do not recall — I can say honestly that I do not recall what happened there last year. I would say, however, that since 1994 we have been very, very careful about our responses. The introduction of the Melbourne Response and Towards Healing in 1996 was a real watershed for the church in general. I am embarrassed if that was said last year. It relates to 1994. We have certainly changed for the better since then.

The CHAIR — I hear what you are saying, Archbishop Hart, but it is an article of last year, which I would have thought would have come to your attention.

Archbishop HART — It does not give me any pleasure, I can assure you.

The CHAIR — I understand that you do not recall the specifics of the case, but do you recall when Klep ceased to be Rubeo's spiritual adviser? Do you know when that was?

Archbishop HART — I do not have that information, I am sorry.

The CHAIR — In addition to your role as the Archbishop of Melbourne, do you not think that you should have perhaps stepped in at some point and had a look at this issue?

Archbishop HART — If I was aware, I would certainly have stepped in. I must say I was not aware. Rubeo died on 11 December 2011.

The CHAIR — Let me just take you to Rubeo. You wrote a letter on 24 July 2012 to the victim I was referring to in that news article. In that letter you write:

Had Victor Rubeo lived to face court I would certainly have referred his case involving your suffering to the Holy See with a request for laicisation as I have done wherever there has been a criminal conviction.

Could you say the same in respect to another convicted priest, Des Gannon?

Archbishop HART — I did refer the case of Rubeo to the Holy See, and he died before the Holy See had given its decision. I did refer the case of Des Gannon to the Holy See. I received a reply at the end of 2011 or last year saying that because of his extreme age I should impose a penal precept. A penal precept restricts where they are and what they are able to do.

In December last year I wrote again to the Holy See saying that despite his advanced age because of the seriousness and the number of his complaints it was just not good enough and that for the good of society and the good of the church he should be laicised. When I was in Rome on 17 January I spoke with Archbishop Ladaria, to whom I had written, and he assured me that these matters were being worked on but that there was a fair amount of work. I then made inquiries just the week before last as to the progress of my request, and so far a reply has not been received.

The CHAIR — I understand that, but you were aware of Des Gannon's history, were you not, some years before that? In 1999 you received a letter from a psychologist, Ben Nisenbaum, in your capacity as bishop?

Archbishop HART — I was not archbishop in 1999, I do not think.

The CHAIR — No, but it is addressed to 'Dear Bishop Denis Hart'.

Archbishop HART — Good, thank you. I was vicar-general.

The CHAIR — Yes. This letter speaks of the intensive psychological program that was provided. In this letter it states:

... we will send you a report on his achievement in the program ... At this time in considering Father Des's continuing care we recommend that he continue his individual psychotherapy twice weekly and continue to attend one session of group psychotherapy a week.

That was addressed to you on 10 February 1999. The year before, in 1998, an assessment report was done on Desmond Gannon and was sent to the then archbishop, George Pell. That assessment report is pretty explicit about Father Gannon:

... his sexual offences ranged over the years from about 1957 to 1979, though this last date may stretch to 1981.

The letter goes on to say that:

This deficiency, together with the absence of effective resources in coping with his overall psychological disturbances, means his level of risk for reoffending is a very real concern and needs to be attended to forthwith.

So in 1998 this man was identified as a high risk. In 1999 you were made aware of this. I understand that Father Gannon was not prepared to be laicised and you went through the process of the penal precept and wrote that letter to the Vatican just last December, in 2012. That letter — of which we have a copy, and I will just read a couple of paragraphs — refers to this inquiry and it refers to the royal commission:

The media in Victoria have been active in reporting the information and allegations made before the parliamentary inquiry, often concentrating on those cases involving the Catholic Church.

I am gravely concerned that the steps taken in the case of Reverend Desmond Gannon, in the light of this new situation and also the possibility of further allegations against him, be seen to be inadequate and the cause of scandal for the faithful.

The final paragraph says:

I am concerned that the good name of the church and the strong and energetic efforts that are being made within the Archdiocese of Melbourne to protect children could be damaged unless Reverend Desmond Gannon is laicised.

Would you not agree, Archbishop Hart, that there is an inconsistency here with what is being undertaken and what the church is saying they are doing and what is being done? Clearly you knew about his past, and clearly you took steps only recently to further his laicisation.

Archbishop HART — First of all, I would say that he had his faculties as a priest withdrawn on 3 August 1993 by Monsignor Cudmore, so he did not work as a priest ever since then. He then had some convictions and some prison time. It is very difficult to process a case. What is also significant is that if the person is not ready to cooperate, up until the new version of *Sacramentorum Sanctitatis Tutela* in 2002 there was a very heavy reliance on that unless you could get the fellow to petition to be laicised, you could not do quite as much without a very, very onerous process. What was significant in 2002 was that the then Cardinal Ratzinger — Pope Benedict XVI — simplified the process and enabled the bishop to go as petitioner and for there to be a more summary process which would bring the result. Because he had been in jail, we were not able to go ahead until 2011 when we certainly went for it and we put the case there in great detail. So I would say that we were always desiring to do something. The difficulties of church law at the time and the difficulties of him being imprisoned impeded us through that time. But I was quite resolute then when I sent his case to Rome, and I maintain that resolution.

The CHAIR — So you are saying he lost his faculties in 1993, is that correct?

Archbishop HART — Yes, that is right.

The CHAIR — And it took until 2011 — 18 years — for you to contact Rome?

Archbishop HART — There would be very few who would have been laicised forcibly until the late 2000s — until after 2002. We were quite determined to get something done about Gannon, and we are still determined.

The CHAIR — Eighteen years, nineteen years later?

Archbishop HART — Well, better late than never.

The CHAIR — Archbishop Hart, do you not agree that for many victims of a former priest like Des Gannon the Archdiocese of Melbourne did not do that fast enough? Would you agree?

Archbishop HART — I would say we did what we could. I wish it had been earlier. I agree with you. I really would have wanted to get onto it, but we just were restricted by the fact that the law had to be changed, and that did not come until 2002. We were also restricted by the fact that he was in prison at different times. It is not a nice story. I agree with you. His activities have been most offensive to those who were his victims, to their families.

The CHAIR — Which law are you referring to that was changed in 2002?

Archbishop HART — I am referring to the *Sacramentorum Sanctitatis Tutela*, which was revised in 2002, in which there were additional provisions made for a more summary process for laicisation. Prior to that our experience had been that unless, as I said, we could get the person to petition to say, 'Look, I want out of here', it is very, very difficult. Why it is difficult is because of the high standard of proof which Rome requires. They require absolute certitude as to what took place.

The CHAIR — The man had been convicted, trialled and sentenced, so there was a fairly good record of what had been undertaken in his past. But still it took a further nine years since the change of law —

Archbishop HART — I am not proud of that, but at least we are addressing it.

The CHAIR — It is very symbolic, I think, for many victims.

Archbishop HART — I understand that.

The CHAIR — That is the confusion that we have heard from many witnesses, that there is a perception by the church that they have not acted quickly enough, and in some cases they feel covered up.

Archbishop HART — I would agree with that.

Mr McGuire — Archbishop, why did the Catholic Church not take a zero-tolerance approach against paedophile clergy?

Archbishop HART — I certainly believe that that is the most appropriate way to go, and I would say that we have always — —

Mr McGuire — Why did you not enact it? You keep saying it, but the facts argue against you. Why did you not actually deliver on that?

Archbishop HART — Well, we have always removed them from ministry. I think the awareness that has emerged is that more is required, and that is why I — —

Mr McGuire — You always knew that, though. This is not late-breaking news, that sexual offences, including rape against children, are crimes.

Archbishop HART — They are a crime in our state and we are citizens of our state — and we accept that.

Mr McGuire — And forever and a day they have been crimes, right?

Archbishop HART — Exactly.

Mr McGuire — So when we go to the instruction *Crimen Sollicitationis*, issued in 1962 to all bishops, it applied, in article 5, to the sexual abuse against children. It stated that such conduct was, and I quote, ‘the foulest crime’. You agree?

Archbishop HART — Exactly. I agree.

Mr McGuire — As I understand this instruction, all such offending was to be reported to the Vatican and to be handled with strict confidentiality. Is that correct?

Archbishop HART — My understanding is that *Crimen Sollicitationis* in 1962 is a revision of a 1922 document written in Latin for all people of the world, and it makes it very, very clear. The instruction about reporting is something that is there. I must say the Church in a lot of countries has been very slow to get into it.

Mr McGuire — It was kept under the strictest confidentiality, is that correct?

Archbishop HART — The point about the confidentiality is not to obfuscate. If you are dealing with something which is terribly offensive and hurtful to a child, obviously it is to the advantage of that child that the matter be dealt with expeditiously and that that child’s confidence be respected. That is the point of the thing. It is not to sort of obfuscate.

Mr McGuire — I will argue a different proposition and say that really what has happened has been a systemic proposition that has allowed paedophile priests and other clergy to act above the law. That is what has happened. There has not been the direct accountability on these issues.

Archbishop HART — I would certainly say that the church has been slow to act. I would stand by what we have done since 1996 by pulling them straight out of ministry. I think a lot of bishops who do not have the canonical expertise would have seen the complexities of the process that was required at that time to have been a little bit beyond them. I find that not acceptable. I agree with you.

Mr McGuire — It is not credible, is it? It is not credible. You are arguing complexity when in fact it is simple. This was always a heinous crime. Is that correct?

Archbishop HART — I agree with you, certainly.

Mr McGuire — It should have always been dealt with up-front.

Archbishop HART — I agree with you.

Mr McGuire — It should have always been revealed to the police and the correct legal system for it to go down that path.

Archbishop HART — I believe that it is paramount that the requirements of civil law be observed. And we are citizens — —

Mr McGuire — And humanity, and Christianity in particular.

Archbishop HART — And also the requirements of the Church.

Mr McGuire — Correct, exactly. So everybody required this to happen. Was the instruction to keep strict confidentiality followed in the Melbourne archdiocese?

Archbishop HART — I can only speak after 1996. I do not have any knowledge of anything of that type before that.

Mr McGuire — But you must, surely.

Archbishop HART — I would be sure that the question of confidentiality of these matters was probably kept, in one sense, too much in that the church was too keen to look after herself and her good name and not keen enough to address the terrible anguish of the victims, and that causes me pain.

Mr McGuire — This goes to the heart of the issue, does it not?

Archbishop HART — It causes me pain, too.

Mr McGuire — The Church was protecting its treasure, its good name and reputation, and its money.

Archbishop HART — I believe that was true, and I believe that since the early 1990s that has changed — slowly, sometimes with agony, but it has changed.

Mr McGuire — I will refresh your memory here. The material provided to the committee says, and I will directly quote here:

Having searched the records of the archdiocese, and after making inquiries, it is understood that until the early 1990s Archbishop Little dealt personally and confidentially with all allegations of abuse within the archdiocese and with clergy against whom allegations were made.

I continue the quote:

It appears from the records of the archdiocese, and is confirmed by former vicars-general Connors and Deakin, that until the 1990s Archbishop Little treated allegations of abuse with absolute confidentiality. He did not document the allegations, and he kept his own counsel. As best can be determined, he did not confide in anyone about these matters.

Is this correct?

Archbishop HART — That would be my understanding. I did not know at the time.

Mr McGuire — How could you not have known that? You did not do the research to find out what the system was, how it was working?

Archbishop HART — I know that what you say there is correct as I know it.

Mr McGuire — Is it the situation that no accurate estimates can be made of the amount of complaints considered by Archbishop Little prior to him handing the responsibility of dealing with such complaints to the Vicar General?

Archbishop HART — There are certainly no records to that effect.

Mr McGuire — So we have no records; you are saying there is nothing, no evidence. So we do not know how long this has been going on, what was the pattern of behaviour and who were the offenders?

Archbishop HART — My understanding is, as you have put it, that Archbishop Little kept all these things to himself and there were no records.

Mr McGuire — Let us go through what the consequences were of this culture of denial and cover-up. Who were the key priests who then came to the public attention, who had been critical offenders during this time? There were Father Baker and Father O'Donnell? Do you want to go through and explain on the record what they did?

Archbishop HART — I am not quite sure of your question.

Mr McGuire — I want to go to the heart of this issue that there was a concerted and prolonged culture of denial and cover-up. I want you to put on the record who were the priests who were put above the law because of the consequence of this strategy.

Archbishop HART — I have to say to you two things. First, there was a victim who came forward, asserting that he had complained to the then Monsignor Moran in 1958 about Father O'Donnell's offences. When he was asked under oath, as part of an interrogatory in 1993, Archbishop Little swore on oath that he had not known about O'Donnell until 1992. So there is a big gap there. There is no record. A complainant has stated that he went to Monsignor Moran. There was no record of what Monsignor Moran did or what the effect was. They are the two things I know from the records about O'Donnell.

Mr McGuire — What does that say about Archbishop Little's behaviour?

Archbishop HART — It says that he kept no records and kept them to himself.

Mr McGuire — It says that he was covering up, doesn't it?

Archbishop HART — I cannot justify that way of acting, I must say, myself.

Mr McGuire — I think it is by deduction, is it not? Here are the instructions from Rome. It is 'the foulest crime', but you have got to keep strict confidentiality. Here is the pattern of behaviour from Archbishop Little that he kept no records, so therefore he was covering it up.

Archbishop HART — That is the first matter. There is a second matter — —

Mr McGuire — Do you agree with that?

Archbishop HART — I would have to agree with that, I think.

Mr McGuire — I just want to go through what were the consequences of this action, because we are talking about Father O'Donnell, Father Baker — a whole series of clerics who would now be regarded as amongst the worst group of paedophiles in Australia's history. Do you agree with that?

Archbishop HART — I would certainly say that of O'Donnell. With regard to Father Baker, I think I must say on the record that there is in our documentation that a couple of senior people from Gladstone Park parish went first to Bishop Connors and then on to Archbishop Little about Baker's offences. It is alleged that Archbishop Little did not believe him, and he simply moved him to another parish. I should state that on record. They are of course not things that — I believe that was a wrong decision, a totally wrong decision with devastating consequences.

Mr McGuire — Correct. This goes to the next stage of this cover-up, that what happened then was that paedophile clerics were moved on to innocent parishes and to innocent children. Do you agree with that?

Archbishop HART — I certainly agree that it is there in the case of O'Donnell and Baker.

Mr McGuire — And Pickering?

Archbishop HART — If there has been secrecy and cover-up, I would agree it more extensively, but I do not have any evidence of that at this point in time.

Mr McGuire — Therefore the Catholic Church, the Melbourne Archdiocese, facilitated moving on paedophile priests to innocent parishes and further victims whose lives were blighted or in some cases ended up in suicide.

Archbishop HART — That gives me no joy at all, I can tell you.

Mr McGuire — That is the fact of the matter, is it not?

Archbishop HART — It gives me no joy.

Mr McGuire — I want to just get it on the record; that is the fact of the matter, is it not?

Archbishop HART — Let us be very clear, there is only one person who is ultimately responsible, and that is the Archbishop of the time.

Mr McGuire — But the Archbishop at the time — his riding instructions from Rome were strict confidentiality. That is correct, is it not?

Archbishop HART — That would be what was in the document, but I did not know of the document until I did some research more recently.

Mr McGuire — He abided by those rules. That is the point.

Archbishop HART — I do not know. I would have to presume so.

Mr McGuire — When did you do your research, just so we understand for the record when you were on top of this issue?

Archbishop HART — I am just trying to think when I would have known of that instruction. I suppose when I became Vicar General I would have known that that instruction existed — only in 1996 or 7.

Mr McGuire — We have the facts established that there were no records and there was no way to trace the pattern of behaviour. In effect what happened was that these repeat offenders and paedophile priests were moved on to innocent parishes and to access of innocent children whose lives were either blighted or, in some cases, they committed suicide.

Archbishop HART — I believe that is an awful blight on the church, and that is why I am here today, to put the situation very clearly to the committee and to put my anguish and pain and anger about this to the committee.

Mr McGuire — Is it a coincidence that a similar approach was also adopted by Bishop Mulkearns in Ballarat, who, the committee has been informed, kept few records and destroyed documents?

Archbishop HART — I have never been in authority over Bishop Mulkearns. I think it is probably not fair that I speculate, but I do lament whenever these things are performed in that way. It is just wrong. It hurts and offends, and it maims and ruins lives.

Mr McGuire — That given, what I am saying is there is a repeat pattern of behaviour by bishops, and they are acting under these instructions from Rome to keep the strictest confidentiality. That is the pattern, is it not?

Archbishop HART — I would make a distinction. The right use of that confidentiality means that something is being done. The covering up and the doing nothing means that it is worthy of great condemnation.

Mr McGuire — I put it to you that not only were they covered up but these priests were then moved on. They were placed above the law — that is the point — and they committed further crimes. It is a matter of record.

Archbishop HART — The bishop of that time must take responsibility, and the impact of course is devastating.

Mr McGuire — Have any records been kept of such reports to the Vatican?

Archbishop HART — I do not know of any in our files.

Mr McGuire — What about from the other end, from the Vatican's position?

Archbishop HART — I am sorry?

Mr McGuire — What about from the Vatican's position? Do you know if they have files on these offenders?

Archbishop HART — They would not normally have any files of which we did not have a copy. In other words, if I send a case to Rome, there is always a copy kept here, and some of those copies, at the request of the committee, have been made available.

Mr McGuire — So are reports being forwarded to Rome?

Archbishop HART — I stand by what I have done.

Mr McGuire — So have you forwarded reports to Rome?

Archbishop HART — Where the criminality is clearly established in a court of law, yes.

Mr McGuire — How recently was the last one?

Archbishop HART — I suppose it would have been in January 2011.

Mr McGuire — What was that in regard to?

Archbishop HART — That would be the Gannon one, I think. I think he would be the most recent one. I stand corrected on that because I have sent — —

The CHAIR — December 2012, another letter.

Archbishop HART — A number who are living, who have been convicted in a court of law, I have sent their cases to Rome.

Mr McGuire — When you were interviewed on *Sunday Profile* on the ABC in July 2010 after you had issued an apology on behalf of the Archdiocese you indicated that you first began to hear that priests were engaging in sexual abuse in 1992. You then said, and I quote:

When Cardinal Pell became the archbishop in 1996 I became his vicar-general or chief executive and it was at that time and only at that time that I came to know of specific instances and of the awful things that had been done.

Is that correct?

Archbishop HART — That is correct. What I would have said in 1992 is if something is reported in the newspaper, like everyone else, I read the newspaper, but the specific knowledge was only what I had when I became Vicar General in 1996.

Mr McGuire — Are we to understand that you had never heard anything at all about such matters prior to this time? I am raising the issue that there were 35 writs at that stage against the church, and there were criminal prosecutions under way as well.

Archbishop HART — I would have known what was reported in the press when I was an ordinary priest. Not until I became Vicar General would I have known the precise details.

Mr McGuire — But had you not also participated in the attempt to laicise, that is defrock, Father Michael Glennon?

Archbishop HART — He had already been in court. He had already been reported in the newspapers. I made two attempts at the request of Archbishop Little to present Glennon's case to the Holy See — it was on 20 November 1990 and 27 December 1994. Then in 1998 we finally were able to succeed. All of this is because of the very high standards of proof that the congregation of the clergy requires. They are very careful and very

slow moving, and I am not thrilled by that, because it was quite obvious right from the start when Glennon was charged on 15 April 1978 with a sexual offence against a 10-year-old girl. That was a real wake-up, and it was something that really meant that we had to face this reality. I only saw that in the newspaper. I was not involved in any way in the diocesan administration.

Mr McGuire — Did you instigate any inquiry into these matters?

Archbishop HART — Until I became Vicar General it was not my job to do so.

Mr McGuire — But after you became Vicar General, did you?

Archbishop HART — I became vicar-general contemporaneously with the beginning of the Melbourne Response, when the policy was that all inquiries were to be undertaken by the Independent Commissioner. Therefore that was going to be our way forward.

Mr McGuire — But surely there was a need to have an investigation done right across the church to actually analyse what was going on. We have had the various orders come before us, and none of them launched their own-motion inquiry to find out what was going on. So who was in charge? Was there nobody at the top? Where was the leadership?

Archbishop HART — I do believe that since 1996 with our appointment of the Independent Commissioner and his consistent dealing with complaints we have a much better awareness of what is going on and a much more sharply focused addressing of this matter. The two Independent Commissioners have given a decision in 97 per cent of all of the cases that they have dealt with that the abuse did take place. Obviously it became pretty clear that of all the cases that we have had in these years in Melbourne something like 58 per cent of all these evil, evil things can be sheeted back to 12 priests. It is really shocking.

Mr McGuire — But it is also about scrutiny and accountability and who you knew what and when, and what did they do or did not do? That is the critical issue too, is it not, because, as you said, the evil that men do lives after them?

Archbishop HART — That is right. We have got to stop the evil that men do now.

Mr McGuire — But who was there to stop them at the time in a much more systemic way? That is the issue that I am raising.

Archbishop HART — You highlighted what was on in Archbishop Little's time. The systemic issue is that we were too slow to realise what was going on, and the reason why we were slow at the start was that these awful criminals are secretive and cunning and devious, and they have kept their evil deeds secret. That is deserving of great condemnation.

Mr McGuire — But complaints were made; it is just that they were covered up. As a community we would have been onto this issue much more and we would have been better informed about what was really going on if the church had owned up to it.

Archbishop HART — I agree. I stand by what we have done since 1996 nevertheless.

Mr McGuire — The first indication of any concerted action to address the problem of sexual abuse was the establishment of the special issues committee in 1988. What triggered that move?

Archbishop HART — I think there was a gradual awareness. We certainly would have had Glennon. This was a bit before I started. There certainly would have been unease in society and in the world, and things were starting to filter in that this awful crime was there more than we would ever expect.

Mr McGuire — So there were international disclosures, and then there was increasing local pressure. That is really what triggered it, wasn't it?

Archbishop HART — I would not have used the word 'pressure', but I think if you discover something awful happening, you come to that realisation that it is a pressure. I certainly would go for that.

Mr McGuire — That is what I am saying. Was there any investigation undertaken by the church to ascertain the extent of the problem?

Archbishop HART — I was not a bishop at the time, but I know that the bishops of Australia established that special issues committee in 1988, and there was a further iteration in 1992. The whole purpose was, ‘How do we seek to address the needs of these suffering people? How do we really try to confront this awful evil?’. There was just horror and disbelief. I am not making excuses for any of my predecessors — —

Mr McGuire — But there was never zero tolerance taken, was there?

Archbishop HART — Just let me say one thing — —

Mr McGuire — It is the critical point. You never took a zero-tolerance — —

The CHAIR — Mr McGuire, let the Archbishop finish.

Archbishop HART — I am quite happy to answer your critical point. I think Archbishop Little could be a typical example of the way we sort of all groped forward to — —

He was a very sensitive person. I do not think he could believe that priests, who were supposed to represent the very best for people and what Christ would do to them, could do such absolutely evil, evil things, and I think he really struggled. Now that is not to excuse what happened, but I think it shows not only in his time but in the whole church how we really grappled and battled to come to terms with it.

Mr McGuire — But was not the responsibility to do something about it? That is the point.

Archbishop HART — The responsibility was there, and that is why I believe we were slow in those times to come to face that responsibility. The realisation did not hit till a long time after it should have.

Mr McGuire — On the disciplinary matters, what is the relationship between the archdiocese and the Vatican with respect to the disciplining of priests and laicisation — defrocking them?

Archbishop HART — I do not have any power to laicise priests. I can remove a priest from ministry. I do still have to see that he gets somewhere to sleep and all the rest of it. If a priest is guilty of something which is wrong, I can remove him from ministry or remove him from his appointment and I can restrict him. I can impose a penal precept, which means you restrict where they go, where they live and what they do. If there is something which is so serious, I can refer the matter to the Holy See. Normally there are one of two ways to persuade the priest to petition for a dispensation from priesthood — for release from the priesthood; or in a very serious matter, now in these matters, I, as the bishop, can petition the Holy See setting out the reasons, and if he has been convicted, setting out what is in the charges and what he has been convicted of. They can then take the matter to the Pope directly. It is a much simpler procedure now. In all of those cases anything that is sent to Rome is kept in copy here and has been made available to the committee.

Mr McGuire — In the material provided you have identified that eight priests have been laicised. When did each of these occur?

Archbishop HART — Eight cases were sent. Just let me get my facts together. Eight have criminal convictions, six have been laicised and two have faculties withdrawn.

Mr McGuire — What is this — —

Archbishop HART — I suppose I would have started those within the last five years.

Mr McGuire — Were these done on their own request, or how many were as a consequence of the church initiating them?

Archbishop HART — For five of the six I was the petitioner ex officio and one was persuaded to petition for his own welfare.

Mr McGuire — Is laicisation currently being pursued as a form? As the Chair has raised with you, we have got the situation that you wrote to the Congregation for the Doctrine of the Faith in December, just the last December past, so five months ago —

Archbishop HART — I spoke to them in January.

Mr McGuire — to get Gannon laicised. But there are issues that this raises. When you look at the detail of your letter, what you said is:

In the near future, the Catholic Church throughout Australia will — along with other religious organisations — be the subject of a royal commission —

into matters. You have also raised that it was subject to this parliamentary inquiry. You then said:

The media in Victoria have been active in reporting the information and allegations made before the parliamentary inquiry, often concentrating on those cases involving the Catholic Church.

You also said:

I am gravely concerned that the steps taken in the case of Reverend Desmond Gannon, in the light of this new situation and also the possibility of further allegations against him, be seen to be inadequate and the cause of scandal for the faithful.

I just want to go to the point there. This action that is being taken, why was this not done on the basis of justice?

Archbishop HART — Let us say you are at a later stage. We would have sent a case to Rome which had all the details of his convictions. So in other words we had already argued on the basis of justice. We were trying to get them to see that this was an exceptional case for the public good, for the welfare of society and the Church.

The CHAIR — But I think it goes to the point that I raised earlier, Mr McGuire. In relation to the Archdiocese's understanding Desmond Gannon's past and taking up to this point for you to contact Rome. I think that is the point you are making.

Mr McGuire — The point I am making is — and I will quote you directly again, Archbishop — that you said:

I am concerned that the good name of the church, and the strong and dedicated efforts that are being made within the Archdiocese of Melbourne to protect children, could be damaged unless Reverend Desmond Gannon is laicised.

I therefore humbly request that this case be reconsidered in light of the new situation.

And the new situation is external scrutiny and accountability. It is this inquiry and the royal commission. Do you understand how this can look. It is, 'Why are you doing this?'. Yet again the church looks like it is being dragged kicking and screaming, right at the last minute, to actually do what should have been obvious a long time ago.

Archbishop HART — I put the justice argument. I was trying to pile up other arguments that might sway matters to get them to make an exception, because when people turn 80 it is a lot more difficult. You have got old age and frailty. Now I do not agree with that. If a person has offended, if a person has really seriously hurt people, the consequences of the civil law should be followed and the person should be removed from the priesthood.

Mr McGuire — But you have only pursued this at this level at this time just before appearing before this inquiry.

Archbishop HART — Only because the reply — —

I am not sure when the reply came. We had been thinking about what we could do for some months, I must say.

Mr McGuire — But it is way too late. It goes to one of the key issues: that the Church has seen fit to move as late as possible and that it is being motivated, according to witnesses and evidence that we have taken, to protect its treasure, its good name and reputation and its money. Unfortunately that is the evidence before this inquiry.

Archbishop HART — I would certainly say that we were slow to move. With regard to Gannon, I believe I put that case very, very forcefully, and I was not very happy that it was not granted and I was told to impose a penalty.

Mr McGuire — But do you agree that it can look like a public relations exercise or a piece of propaganda?

Archbishop HART — That was not the way I saw it.

Mr McGuire — Thank you.

Mrs COOTE — Thank you, Archbishop Hart and Mr Moore, for being here today with us. I want to talk, too, about the reputation of the Church. I understand that some of these documents do not deal with you as the Archbishop now, but surely as the head of the Archdiocese in Melbourne you would share some responsibility for what has happened in the past. You said in an open letter to the people of the archdiocese of Melbourne on sexual abuse in July 2010 that ‘this is one of the saddest times’ in your 43-year priesthood. I ask you: has it also been one of the most challenging times to manage?

Archbishop HART — Certainly there are challenges. I did not think for a minute when I was ordained a priest I would ever become Archbishop. However, having accepted the role of Archbishop, I accept the challenges, because what I do and the abilities I have are seen there as serving people. If that means that I have got to face some difficult issues, if it means that I have got to work with the community to carry the eradication of this awful evil forward, I am prepared to do so.

Mrs COOTE — I would like to refer to the 1992 protocol. I am very aware that you were not the bishop then, but I would like to talk about what the ethos was behind this protocol, which was from the Australian Catholic Bishops Conference special issues subcommittee. It has a number of paragraphs; it goes up to 9.7.2. But in paragraph 4.1.5 it says, ‘to act so as to prevent or remedy scandal’ for the church. It then goes on to say in paragraph 5.5 that:

The provincial council and the relevant major superiors and superiors —

I guess that is a typo —

shall nominate a spokesperson(s) who shall be the only authorised person(s) available to comment to the media on behalf of the competent ecclesial authority in relation to allegations of criminal behaviour.

Then, finally, in paragraph 7.3 it says:

No admissions should be made to the complainant or victim or any other person:

7.3.1 that the accused is guilty;

7.3.2 that there is any liability in damages;

7.3.3 that any particular course of action will follow any investigation.

I think you have said already in answer to my colleagues that that was then and this is now. However, as this is now, I would have to ask: do you accept that things have moved on?

Archbishop HART — Yes.

Mrs COOTE — You have said this today.

Archbishop HART — Certainly.

Mrs COOTE — Then in that case, on a different line to the letters that you have sent most recently to the Pope and to the Congregation for the Doctrine of the Faith, first of all, in relation to Father Wilfred Baker in a letter in 2010, I would agree with Mr McGuire that there seems to be an inordinate amount of haste because of the impending inquiry here today and the royal commission and the media scrutiny. It would seem to the cynics amongst us all — and there are many victims who are very cynical, and justifiably — that this is in a lot of haste and it is too late.

You said yourself before, 'Better late than never'. I think that is totally and utterly unacceptable, and I think as you heard from the gallery here today they also feel that. But in a letter to the Pope, which we have had access to, you say:

I am particularly concerned that at the time of the original trial and subsequently, publicity in our major daily newspaper has meant that the danger to the church and the victims by Father Baker's actions is a cause of grave scandal.

That is you in 2010, not in 1992. This is you. Then to the Congregation for the Doctrine of the Faith, again about Wilfred Baker, on 30 August 2012 — that is, last year — you say:

Currently in the state of Victoria there is a parliamentary inquiry into the procedures used by churches and non-government organisations to deal with the clergy and church personnel accused of sexual abuse of minors.

As the church is making submissions to the inquiry it would indeed be helpful and assist the good name of the church if we were able to give a clear indication of the decision of the Holy See re the offences perpetrated by Father Baker.

There is no mention of the victims.

Then in the letter that has already been mentioned today by Ms Crozier and Mr McGuire, once again to the Congregation of the Doctrine of the Faith, on 18 December last year you said:

Regrettably, the situation within the archdiocese of Melbourne and civil society has changed since that time —

and you go on to talk about the media in Victoria being active in reporting information and allegations from this committee. You also go on to say that it would be 'the cause of scandal for the faithful'. How would you say to the victims that this is any different from 1992?

Archbishop HART — I would certainly say it is different. First of all, when I use the word 'scandal', I mean that a person who is supposed to act in the place of Christ acts in the very opposite and this causes people a loss of faith, so I am using a technical term there. Certainly for the victims, you have to remember that the Baker case would have been sent before there was any question of an inquiry, and I was trying to add to the Baker case in order to try to get it through — to try to inform the Holy See of the climate in the society, because I know that to get that fellow out of the priesthood will at least, as much as we can, provide some tiny relief to the victims.

Mrs COOTE — I would agree with Mr McGuire, and I think you would acknowledge too, that the time has been a major problem for the Church. It has not been done in a timely manner. Would you agree with that?

Archbishop HART — I certainly would be wanting to do things in as timely a manner as possible. I am the first person to admit when there are delays.

Mrs COOTE — You said in your answers to Mr McGuire and Ms Crozier that these abuses are a blight on the Church.

Archbishop HART — I would say that, and I will say that in my final statement.

Mrs COOTE — You also said that you have become very, very careful in your responses. I would like to ask you if you have become very, very careful in your responses because you are being guided or advised by your media people within the Catholic Church?

Archbishop HART — My responses are my responses, and I stand by what I write. I do not normally refer things of those types in letters like that. I write them myself.

Mrs COOTE — Could I go to the public relations of the Catholic Church here and now, under your jurisdiction? I believe that you have a director of communications — a Mr James O'Farrell. Is that correct?

Archbishop HART — Yes.

Mrs COOTE — Could you explain how big his office is? How many other people are involved in that office?

Archbishop HART — He is simply involved in feeding media inquiries. He would have one or two assistants, would he?

Mr MOORE — The communications office that he heads is responsible for our online publications as well as our journal. There are a number of online publications. I think there is a staff of around eight people who work in that office.

Mrs COOTE — So he deals just with the Archdiocese of Melbourne? He does not deal across anywhere else in Victoria?

Mr MOORE — His role is and he is employed as the Communications Director for the Archdiocese of Melbourne, but in the context of this inquiry, he has been receiving media inquiries that relate to the conduct of this inquiry and the church's engagement with it.

Mrs COOTE — Has the staffing in his team altered in the last 12 months, given this inquiry?

Mr MOORE — No.

Archbishop HART — No.

Mrs COOTE — Could you tell me how long Mr O'Farrell has been in that role?

Mr MOORE — I think he has been there for about eight years.

Mrs COOTE — Could you give me some indication of how much this office costs to run in a year?

Mr MOORE — With a staff of around eight — I do not know exactly. I am happy to get back to you with that figure, but it does include a range of activities; as I say, publication of our journal *Kairos*, publication of our weekly online newsletter, the — —

Archbishop HART — Website.

Mr MOORE — The updating of our website. So there is a lot of work beyond the support of the diocese with this inquiry.

Mrs COOTE — Do you have some indication about how much Mr O'Farrell earns himself?

Mr MOORE — Not off the top of my head, Mrs Coote, no.

Mrs COOTE — A ballpark figure?

Mr MOORE — Not off the top of my head.

Mrs COOTE — You are the business manager:

Mr MOORE — I am, yes.

Mrs COOTE — So you have no idea about how much you pay staff?

Mr MOORE — I do have an idea, but you are asking me specifically and I have not been asked to prepare for this question for today. I can get you the answer, but I do not have it here with me.

Mrs COOTE — I think, Mr Moore, the issue here is that we gave you a guideline about what some of the issues would be, but you are here to answer the questions that we ask you today, not a prescribed script.

Mr MOORE — Yes, I understand that.

Mrs COOTE — I ask you again what is the ballpark figure for Mr O'Farrell?

Mr MOORE — I would think that figure would probably be in the order of \$150 000 to \$180 000.

Mrs COOTE — Fine, thank you.

Mr MOORE — But I would say in relation to that answer that I am relying upon memory, and I am happy to confirm the record for you if you wish.

Mrs COOTE — Thank you very much indeed. This question is to Archbishop Hart. I also understand that you get assistance from a public relations company by the name of Royce. Indeed in the *Herald Sun* of 7 May 2012 under the heading ‘Let’s loosen the locks on those secrets’, in a question to Neil Mitchell, it says:

The Archbishop was in 3AW’s studios armed with a wad of briefing notes and accompanied by the chief executive of Royce communications — the new-look Catholic Church.

Could you please explain to me: it is Royce that you have as your communications company?

Archbishop HART — We have used Royce, and obviously we need people with professional skills to advise us at particular times, to help us in preparing for interviews and appearances and so on. Yes, we do that.

Mrs COOTE — So would Royce communications have given you a media briefing on how to approach this inquiry today, for example?

Archbishop HART — No.

Mrs COOTE — Do they work with Mr O’Farrell on a regular basis?

Mr MOORE — They work with Mr O’Farrell from time to time if issues emerge in the media and we need to deal with the media.

Mrs COOTE — Could you explain your business relationship with Royce? Is it on a retainer or do you have someone seconded to your office?

Mr MOORE — No, we do not.

Archbishop HART — No, it would be fee for service, wouldn’t it?

Mr MOORE — Fee for service.

Mrs COOTE — Fee for service. So they are paid a retainer?

Mr MOORE — No, they are not paid a retainer.

Mrs COOTE — Could you give us some indication of what that fee would be on an annual basis?

Mr MOORE — Not off the top of my head, but I can provide that information.

Mrs COOTE — Once again, Mr Moore, you are the business manager. You are paying for communications advice, and you cannot give me the details of how much that advice is costing.

Mr MOORE — Not at the moment, Mrs Coote, but I can provide that information to you afterwards.

The CHAIR — I do not think Mrs Coote is asking for the specific details.

Mrs COOTE — I would like a ballpark.

Mr MOORE — I do not have a ballpark at the moment.

Mrs COOTE — You are the business manager and you cannot give me a ballpark?

Mr MOORE — I do not have a ballpark at the moment.

Mrs COOTE — Would it be \$150 000, like Mr O’Farrell is paid?

Mr MOORE — I do not have a ballpark, but I am happy to confirm the figure to you subsequently.

Mrs COOTE — Thank you. The document we have here is a very glossy brochure, *Facing the Truth*. You said before that Mr O'Farrell is responsible for your media. Did Royce have some role in preparing *Facing the Truth*?

Mr MOORE — No, they did not. That was prepared within the church.

Mrs COOTE — It was given to all of us here. This is volume 1, and we have a very thick volume 2 as well. Was that sent out and distributed to people other than us?

Mr MOORE — That submission is made available publicly on your own website. We have attached a link to the inquiry website from the 'Facing the truth' website, which we have. Copies of the submission have been made available to parish priests and others within the archdiocese who have requested it.

Mrs COOTE — Can I ask one further question about Royce, as to when you employed Royce and put them on this fee for service?

Mr MOORE — Royce had been involved with the archdiocese going back, I think, to 1995–96.

Mrs COOTE — Are there any other public relations companies that you employ well?

Mr MOORE — We have used other public relations companies depending upon the circumstances and the particular issue that might emerge from time to time.

Mrs COOTE — On Royce's website they say that they provide the following services to clients: communications strategies, media relations, media training, publicity, marketing, branding, imaging and design, social marketing, government relations, policomms, crisis and issues management, attitudinal research and change management. Going back to branding, have they been instrumental in this new church approach that you are taking?

Archbishop HART — No, they certainly have not. The whole of the Melbourne Response implying the focus on the victims, the whole question of the independent commission, the work of the independent compensation panel and the work of Carelink, that was designed by the church and we take responsibility for it.

Mrs COOTE — Here today, either here amongst this gallery or in the offshoot room that we have here today, how many people from Royce and from your own communications team would be here supporting you today?

Archbishop HART — I think one. Is that right, Francis?

Mr MOORE — Yes, I think there is one downstairs.

Mrs COOTE — Just one? Thank you. I would just like to go back to the apology, because one of the things we have had here has been the issue from many, many witnesses. Ms Crozier gave you details of the numbers of people that we have seen and the submissions that we have received, and they are all particularly cynical about the apology that the church offers and the way in which it is offered. They are also very concerned about how much the church pays, and we have seen \$150 000 just for one person. We still do not know how much the whole office of communications costs, and we do not know how much the public relations company costs you. However, when we look at the best-case circumstances of a \$75 000 payout, is it any wonder — —

Archbishop HART — I think it compares very generously with what the state gives for the victims of crime.

Mrs COOTE — I am not interested in the state. I am interested here — —

Archbishop HART — Nevertheless that is a stand. That is a fact.

Mrs COOTE — So you believe that? You believe that \$75 000 is enough. Is that what it is?

Archbishop HART — No, I am not making any comment about that.

Mrs COOTE — No, you just said it. With all due respect, Archbishop, you just said that.

Archbishop HART — I am saying that it does compare favourably with what the state provides, and it has been increased from \$55 000 to \$75 000 as time goes on. There is no block to things being increased further.

Mrs COOTE — So you can understand then that the victims, both the primary victims and the secondary victims, are cynical about what they say to us are hollow apologies because they feel that you can write off \$75 000 for ruined lives. Would you agree with that? Can you understand their cynicism?

Archbishop HART — I believe what we offer is a sincere attempt. No-one can repay the awful suffering that people have undergone. I think that is why the whole thing of counselling, the whole thing of walking with people, is as important. On some occasions, when people have gone outside the Melbourne Response, we have in fact walked with them to a more generous figure. I think the whole thing is that you have got to consider the whole of a person's needs, and that is what we seek to do through Carelink. That is what we seek to do through spiritual counselling and so on on the one hand, and that is what we seek to do through voluntary compensation on the other.

Mrs COOTE — As an example that we have heard from this committee, we know that you paid out \$75 000 as a cap, but we also heard that somebody went through the civil courts and got \$450 000. So as far as victims are concerned when that goes through the court process, what you are saying about that \$75,000 is, I would suggest to you, a cynical approach. But I really wanted to talk to you about what Bishop Connors had to say about lawyers and the approach for the apology and the liability. I read to him what I read earlier to you from the 1992 protocol, and he said in his answer:

That is a very defensive approach, and I think it was due to the fact that the church was listening to insurers and lawyers who were saying 'Admit nothing' ... 'Never say you are sorry'.

He goes on to say:

I think that was the difficulty for the bishops, because they were taking the wrong advice never to meet with victims and never to admit something —

was happening.

Then again last week, very recently, we had Peter Norden, who I know is a former priest. He said on 774 radio about this inquiry that he thought their — as in the Catholic Church lawyers — cause is too litigious and that the Catholic Church have become too focused on the legal issues and have lost sight of the moral and ethical issues associated with child sexual abuse by clergy. Would you agree?

Archbishop HART — I believe that we have progressed considerably since what was said about that in 1992, which was in the extract that you read from Bishop Connors. I think we have sought and I have had meetings with victims. I am deeply touched by what they have gone through. I seek to try and move forward, and I believe that the whole of our Melbourne Response, albeit nothing is ever perfect, but albeit it is a sincere, concerted attempt to provide a clear evaluation, clear access to counselling for as long as the person wants, and to provide some financial relief in what is a very, very difficult situation. I believe that it is well conceived. I believe that we are sincere in what we are trying to do, and I stand by that.

Mrs COOTE — That is what you would like the public to believe.

Archbishop HART — No, that is what I believe. People will make up their own minds about it, won't they?

Mrs COOTE — That is exactly what I am trying to say. The victims have made up their minds. They do not believe what you are saying. They believe that you are spending money on lawyers and spin doctors, but you do not actually understand and admit that not only were there some individual priests, but your church covered it up. It spent money to protect the reputation of the church from scandal, that that is your prime motivator and that you actually continue today to perpetrate that.

Archbishop HART — I would reject that very strongly. I believe that this has been a sincere attempt to move forward, and we are committed to moving forward. What I would also say is that numbers of people have been in touch with me to say how the Melbourne Response has helped them. I have not kept records, but I know of those personal contacts and I know that there must therefore be a balance in these things. We are there. One

of the things that we would hope at the end of this inquiry would be that we, as the church and the community, can move forward together to really make a difference. That is what we are committed to.

Mrs COOTE — Could I ask you to read out something which was a pastoral letter that you wrote on sexual abuse. I will just give you a copy from July, 2010, and I am aware that you have written an updated one on this particular hearing from 21 August. If you could please read from the first paragraph that has been highlighted here.

Archbishop HART —

Once again, therefore, I express my deep sorrow and offer a sincere and unreserved apology to all those victims who have suffered the pain and humiliation of sexual abuse and to their families.

Mrs COOTE — Thank you. I have a *Macquarie Dictionary* definition here which says that an apology is:

... an expression of regret offered for some fault, failure, insult or injury.

So in this are you admitting that there was fault on behalf of the church for covering up what those priests did?

Archbishop HART — Certainly.

Mrs COOTE — The second paragraph that I have highlighted, could you read that?

Archbishop HART —

As your Archbishop, I want you to know that I share in your desolation and sense of betrayal. The criminal offences and breaches of vows committed by some priests and religious bring shame upon the entire church. How can we Catholics not be shocked and shamed?

Mrs COOTE — Once again, not the cynicism and the lack of depth to the apology because you have not acknowledged that it was your fault that your church presided over systemic hiding and protecting of paedophile priests. That does not acknowledge that there in that letter, neither does the one in the more recent letter that you have written either. Can you tell us here today that your church, and you particularly as the no. 1 head of the archdiocese here in Melbourne, recognise that your church systemically covered up paedophile priests knowing full well that that is what they were?

Archbishop HART — I do recognise that, and I do accept that.

Mrs COOTE — Will you be able to say that more publicly, apart from here in this — —

Archbishop HART — I have something here.

Mrs COOTE — I am very pleased to hear it. We will hear it in your summing up. We will hear very clearly about the church's fault, failure, insult and injury.

Archbishop HART — But we must also remember what we are trying to do now and what we hope we can do together in the future.

Mrs COOTE — I would have to suggest to you that you have said and other members of other orders and religions have said to us that in fact they are doing everything they can. Have you been back to the classes, for example, of the children who were abused by paedophile priests and asked anybody else if they have been abused?

Archbishop HART — We have certainly made quite clear in schools and parishes the possibility of access to the Independent Commissioner, the process that we have. We believe that the attention that this whole matter is being given in society at present is very much a stimulus to carrying things forward, and we will continue to make sure that the opportunity for anyone to come forward is there and is known about.

Mrs COOTE — That is not being proactive. That is having a process out there, but you have not actively gone back, for example, to people who have been abused within the Archdiocese of Melbourne, their classmates and the people that they knew, and said, 'Can we help you? Were you involved in this?'

Archbishop HART — I would just sound a note of caution there. Obviously the fact of abuse is terribly, terribly traumatic. Some victims — and this is from my limited knowledge — are able to speak about it and are able to talk to others about it and encourage others to come forward. It may well be seen in a perverted kind of way that if we go back to ask them, it might be adding to their suffering. It is just a question in my mind.

Mrs COOTE — Are you guessing that, or do you know that for a fact?

Archbishop HART — I would know it from anyone I have spoken to, and that would not be a number of people; it would be only a few people.

Mrs COOTE — So I am proposing to you that perhaps you could be more proactive.

Archbishop HART — These things are certainly things that together we will have to look at.

Mrs COOTE — I thank you both very much, and I look forward to receiving that documentation on the costs. Thank you very much indeed.

Ms HALFPENNY — I just want to ask a few questions on some of the topics that have already been discussed and then go on to some of the things about what is going to happen now and into the future. Just to understand, the remuneration committee and the retirement foundation, what are the guidelines or restrictions on providing for priests who have been charged and found guilty of rape, for example, of a 10-year-old boy or girl?

Archbishop HART — Normally any priest who has offended, the provision for them is taken under the aegis of the Archdiocese. It is taken out of the normal thing, and they would normally get rent and health insurance at a limited level.

Ms HALFPENNY — That is if a priest has been found guilty of abuse, or criminal abuse, is it?

Archbishop HART — That is right. If a priest has been removed from ministry, we have got to give him somewhere to live. If we do not provide for his health insurance, obviously that comes back on society. Also, in church law I have got a responsibility to priests to make sure that they are provided for adequately but not extensively.

Ms HALFPENNY — Just to pick up on that, you talk about health insurance, and I understand one of the complaints from victims is that the public does pay for their health care through Medicare, because the church does not provide that sort of health care for victims who have health issues.

Archbishop HART — I am not across the detail. I know that the normal practice in society is where something is able to be obtained through Medicare, that is a possibility that opens to all people in society, it does not only open to certain individuals, and that is why I think that if something is available on Medicare, it should be available to all members of society.

Ms HALFPENNY — You were just saying that in terms of priests you provide health insurance.

Archbishop HART — We do, and that is a way in which we are taking responsibility and removing the burden from society that would otherwise be there.

Ms HALFPENNY — But not in the case of victims?

Archbishop HART — No.

Ms HALFPENNY — I understand that the Vatican decides whether a priest is laicised and that sort of thing, but what do you, as the Archbishop of Melbourne, think the obligation is that the Church has to priests who are guilty of these sorts of crimes?

Archbishop HART — I am required, as a bishop, by the Church — and this is partly answering your question — once a person is ordained a priest, to at least provide them with minimum housing. Those who are removed from ministry are provided for at a much lower level than the normal priest, and that meets my

responsibility. I do not have any option on that as a bishop. It is not excessive, and it does not equate to anything like what a priest who is in normal parish work would get.

Ms HALFPENNY — So do you think that the deeds of priests who have been found guilty of criminal abuse should continue to be celebrated and recognised — other deeds — for example, plaques on church walls?

Archbishop HART — We have taken plaques off walls, and I am quite determined that we continue with that.

Ms HALFPENNY — So that has happened, and you are prepared to look at applications — —

Archbishop HART — Yes. In other words, if someone has so seriously disgraced themselves, leaving those recognitions there are a hurt to other people — when they have turned their back on what should be done.

Ms HALFPENNY — Do you believe that this sort of abuse is happening now or could happen into the future?

Archbishop HART — I certainly believe that the statistics that we have show that there was a big peak in the 1960s and 70s and towards 1985. There is much less since 1990. We cannot look into the future, but the fact that we have a much lower level now, I hope will come from the great vigilance of the church, of society and community. Looking at the statistics, I think I would be confident that we are in a much better space. That is not to say we are perfect, and we have got to work on it together.

Ms HALFPENNY — So what are you actually doing to protect children within the parishes?

Archbishop HART — Right throughout the education system there have always been not only reporting protocols but protocols of the way teachers behave with children.

Ms HALFPENNY — I am talking about what the Church itself is doing to protect children. What actions have you taken — —

Archbishop HART — On the first part of the question, church schools have a protocol for the way teachers and children interact, and that is supervised by our education office. Then we have a new protocol — May Our Children Flourish, which gives the parish workers — perhaps I should talk about this whole issue very briefly.

The CHAIR — We have read that protocol.

Ms HALFPENNY — I want to make it specific; you have a policy, but are priests still the employer at the local schools?

Archbishop HART — For priests we have Integrity in Ministry — a protocol for the way priests act with people. For people who work — —

Ms HALFPENNY — But how do you monitor that?

Archbishop HART — Hang on; just let me finish.

Ms HALFPENNY — I understand that you have policies, but how is it monitored, and how do you know that it is being adhered to?

Archbishop HART — We have a second protocol, Integrity in the Service of the Church, and then of course, May our Children Flourish. What we have tried to do is make sure that — first thing — all our parish workers, all our teachers, have a working-with-children check and there is regular in-servicing in our parishes and communities on the provisions of May Our Children Flourish, so in other words that there is a regular in-servicing and engagement, that the right thing is being done.

Ms HALFPENNY — And for clergy? I think you have talked about teachers — —

Archbishop HART — I mentioned the clergy, Integrity in Ministry. Every priest working here has a working-with-children check that is updated, and I can quite confidently say that every priest in this archdiocese

has that working-with-children check, and we do keep an eye on what is happening from time to time through our parishes.

Ms HALFPENNY — Just on that, so you can force or make a priest get a working-with-children check or — —

Archbishop HART — No working-with-children check, no work here.

Ms HALFPENNY — There was an interview with you on, I think it was called *Sunday Profile*, where you were issuing letters to be read out at various churches and parishes by priests, and what you were saying in that interview was that you were not requiring priests to read out that document or to talk and discuss these issues within their parish. So why is it in one area you can require them to do something and in another area you cannot?

Archbishop HART — I could have required them to do something. I made the judgement — this would be my pastoral letter of 2010. I can require them to do something. What I judged was that it was better either — you know, do you read out a whole document and everyone goes to sleep, or do you talk about the document and make it available for people? I wanted to give the priests a bit of flexibility. But certainly the prominence and the awareness is there, yes.

Ms HALFPENNY — You are aware that there has been, until recently, evidence of attitudes within parishes where, if a person makes a complaint, there has been hostility towards them, disbelief, defence of particular priests? Are you aware that there are those sorts of attitudes within the parishes?

Archbishop HART — I would condemn that attitude very, very strongly. It is indicative, of course, of the difficulty that some people have in coming to terms with that someone in whom they have trusted is now no longer worthy of that trust. It is not right, but it probably illustrates the struggles that these people have had.

Ms HALFPENNY — I suppose what I am trying to get at is: where is the leadership to try to change those attitudes?

Archbishop HART — We are trying to do that.

Ms HALFPENNY — You do not require a priest to read out a pastoral letter, to raise the issue, to encourage people to come forward, as has been raised by Andrea Coote, yet — —

Archbishop HART — I submit to you that whether by reading it or by commenting on it and raising the issue, we are in fact doing that, and we will continue to do that. One interesting thing that has happened during this time has been *Facing the Truth*, which is on a website, and you will probably find in many parish leaflets, which are given out on a Sunday, that there are references to material in *Facing the Truth* so that people can be informed, so they know where to come forward. So we are being proactive in a whole lot of ways.

Ms HALFPENNY — By putting a notice on a board? I am just not sure. We have had evidence that these issues are not raised within the church, that people are still not believed, that there is not really any guidance or leadership from the hierarchy of the church to ensure that everybody is working towards the same goal.

Archbishop HART — We have had meetings of priests to brief them on what is to be done, we have had meetings with parish workers, we send out — regularly — information to be put on the parish bulletin. When I say ‘the bulletin’, I do not mean something that is put up on a board; it is something that people will pick up with the mass prayers on it. So the thing is there; it is in their hands. With the in-servicing that we are doing of priests and parish workers, with the communication through *Facing the Truth* and with the getting of things onto parish and school notice sheets, there is an opportunity to do it. We are still doing the best we can to try to get it across. Of course we would like to do a lot better.

Ms HALFPENNY — In the case of a priest who has allegations against them, at what point in time do you think the parishioners ought to know what is going on?

Archbishop HART — Normally our practice has been that a report is made to the Independent Commissioner, and he decides when he recommends to me that the person is to be stood aside. At that time we

have a practice when we do notify the parishioners that the priest is being stood aside because of a serious matter that he is discussing with the Independent Commissioner. So it is — you know, we do not delay.

Ms HALFPENNY — Sorry, I was not clear about that. So when an allegation is made, the independent — —

Archbishop HART — An allegation is made, the Independent Commissioner — I only act on his recommendation because I do not know. The Independent Commissioners are really very, very gifted and very, very competent members of the Victorian bar. What they are doing is according to the independence and ethics of the bar and at the very basis of our legal system.

Ms HALFPENNY — We have heard from the Independent Commissioners, and it is not necessarily like that.

Archbishop HART — Then the Independent Commissioner makes — —

The CHAIR — Archbishop Hart, we have heard from both Independent Commissioners, Mr O’Callaghan and also Mr Gleeson, so we are very familiar with their role. Please go to your question again, Ms Halfpenny.

Ms HALFPENNY — There was a case that was referred to when we were in discussion with Peter O’Callaghan as to at what point should a parish or parishioners know or be told of an allegation against a priest. My understanding from him was that it was about the privacy and that the treatment should be towards the priest in terms of not allowing a damaging of reputation, so it is to err on the side of caution. Do you believe that that is the case — that the rights and the welfare of the priest should be paramount, or the parishioners and victims?

Archbishop HART — It varies a bit. As soon as the Independent Commissioner makes a recommendation, the priest is stood down, and normally at that time we notify the parish.

Ms HALFPENNY — What I am getting at is that there have been cases, while they were quite some time ago, where a priest has been stood down without the parishioners being told. This was the case with the parish in Macleod many years ago. The priest has been stood down or told that he will be going into early retirement. The parishioners get a collection going for him and raise money to send to him, and completely unbeknown to them are the reasons for his early retirement. I am talking about Father Gannon. Can you imagine what the victims would be feeling or what this would do to them, when the parish is taking a collection —

Archbishop HART — I certainly agree with you.

Ms HALFPENNY — and the parishioners themselves, whose own children in fact might have been subject to abuse from this priest?

Archbishop HART — That was in August 1993, so it was in Archbishop Little’s time. I certainly believe that when a person is removed from ministry, for the good of all, the parishioners need to be notified.

Ms HALFPENNY — Again, in terms of the protection of children within the church context and in dealings with priests, as I understand it there is still the independence of a priest within their parish and also within the schools connected to that parish; is that correct?

Archbishop HART — A priest is required to act always in accordance with the teaching and discipline of the church and church law and to fulfil his office in the way that the Church directs. He is the leader of the parish, but he is accountable — —

Ms HALFPENNY — And this would be the same protocol as was required of Father Gannon, Father Best, Father Searson — —

Archbishop HART — Best was not a priest and not this diocese.

Ms HALFPENNY — Okay, whatever. These are the same protocols, aren’t they? How are they monitored?

Archbishop HART — Since their time, Integrity in Ministry — the protocol that we have, the requirements — and the briefings on the protocol for priests are things in which we have in-serviced our priests, and I think the whole situation has changed, thank God. I think there would have been back in that time, back in the 1980s, almost a disbelief. Now you can be quite sure that if someone is even going into imprudent conduct — perhaps speaking in an inappropriate way or something like that — someone will let us know, because not only our priests know the protocols and expectations but our parish workers, those who are associates in parishes and helpers know the requirements. If a priest, a school principal or a schoolteacher does not act according to the protocols, this will be reported.

Mr MOORE — Ms Halfpenny, if I could just say, there are two areas where the priest could typically have contact with children in his parish. One is in the parish school, and I think you have already heard from Mr Elder about the very robust policies that are in place in Catholic schools in the Archdiocese and how there are opportunities within those policies for people who are unhappy about the conduct of a priest to report their complaint directly to the Catholic Education Office, to the Vicar General or to the Archdiocese.

I think in relation to the contact that priests can have with children in a parish setting as opposed to the school setting, as the Archbishop has said, they are governed by Integrity in Ministry. They are also subject to the new 2010–11 policy, May Our Children Flourish. There are and have been quite detailed information sessions conducted in relation to the operation of those protocols. I have participated in them myself. The Vicar General in 2012 appointed a new person to ensure that those policies are being applied across the archdiocese and is monitoring compliance with those policies. So within the school setting that is happening with policies that are — —

Ms HALFPENNY — I am talking about within the church setting.

Mr MOORE — Okay. Within the parish setting it happens through Integrity in Ministry and May Our Children Flourish, with the information sessions, the training sessions, the monitoring sessions and the in-service sessions that are happening — —

Ms HALFPENNY — Do you have an external organisation or group that has come in to evaluate whether you are child safe?

Mr MOORE — I think in a school setting — —

Ms HALFPENNY — I understand the school — —

Mr MOORE — I want to deal with both. In a school setting there is nobody that has more experience in dealing with these matters than the Catholic Education Office. In terms of the parish setting we draw on the experience of Catholic Education Office but we have bolstered our own internal capability to do that.

The CHAIR — Would you like to add anything Ms Halfpenny's question, Archbishop Hart?

Archbishop HART — No, I think that summarises it. We are very vigilant. This is not an answer in a sense, but priests themselves are very aware that where they are around children they have to act in a particular way and that that expectation is something which is part of their office. I think I would say that there is a real consciousness of what should be done there.

Ms HALFPENNY — Just a final question — this is a little bit different — you were saying earlier that you were responsible for the schools and also the institutions within the Melbourne archdiocese. Does that include organisations that provide out-of-home care?

Archbishop HART — Do you mean after-school care, do you?

Ms HALFPENNY — No, I mean foster care, like the MacKillop Foundation — some of the Catholic organisations that provide care for children who cannot be at home?

Archbishop HART — I would have overall responsibility; however, the actual responsibility pertains to the organisation. MacKillop is the Sisters of St Joseph and others.

Ms HALFPENNY — Do you make it your business to find out what is going on in those organisations, whether there are allegations, whether things are dealt with and how they are dealt with?

Archbishop HART — I do have a priest who exercises general oversight in these matters. It is not perhaps as proximate. Your comment is probably a good call for us to be vigilant there too.

Ms HALFPENNY — So you do not get updates or you do? What happens?

Archbishop HART — Certainly we rely on those organisations to run their own affairs. The leadership is accountable to us, and they come as a part of the Catholic Social Services, and it is in that. Really our leader of that organisation does keep in regular contact so that there is an update.

Ms HALFPENNY — But you do not receive reports?

Archbishop HART — It does not come to me personally, no.

The CHAIR — Before I go on to Mr Wakeling, could I get some clarification on a question that Ms Halfpenny asked in relation to the private health insurance that you pay to priests. You said that if you did not pay that, then the community would have to pick up the priests' health bills. I just want some clarification: do you believe therefore that it is the community's responsibility to also pick up the victims and the secondary victims' health bills?

Archbishop HART — I think they are in a different situation. We are paying the private health insurance for priests as part of our contribution to the community. I would see that others will have a variety of arrangements, and that falls within those.

The CHAIR — Should you perhaps contribute to those arrangements in the future?

Archbishop HART — Again, we have to look at what we all do going forward and a whole array of issues.

The CHAIR — So it might be something you would consider?

Archbishop HART — I would not want to give you an answer without considering the detail, I do not think.

Mr WAKELING — Gentlemen, thank you very much for your attendance today. If I may start with you, Archbishop, you have indicated that you commenced in your current role in June 2001. Is that correct?

Archbishop HART — 22 June 2001.

Mr WAKELING — Are you bound by the policies and decisions that have been made by your predecessors?

Archbishop HART — I am a holder of an office. It is not like handing on to a CEO. I am the archbishop for the time. I am responsible for what I do. Obviously matters in the times of my predecessors which are matters of the policy of the universal church I do take on, but I am not dependent upon any of my predecessors.

Mr WAKELING — In response to Mr McGuire's question, where there was discussion about the practices of Archbishop Little, you acknowledged that there was confidentiality and that he was involved in the cover-up of the movement of priests. In your position do you have any responsibility as Archbishop of this diocese to accept his failings?

Archbishop HART — I am not responsible for his actions, but I certainly feel the pain as a result of those failed actions. This is why in 1996 we set up the Melbourne Response, to try to address those serious inadequacies and the huge suffering which has impacted upon victims and family. That is a sincere effort.

Mr WAKELING — But if I may, the leader of any organisation in Melbourne — it could be a chief executive officer — is ultimately bound by the actions of their predecessors. They did not perpetrate them, but they are bound by them. Why would the Catholic Church, the Archdiocese of Melbourne, be any different to any other organisation in Melbourne?

Archbishop HART — What do you mean by ‘bound by’?

Mr WAKELING — So I can just understand: you are saying that your predecessors have made decisions, they are their decisions alone, and as leader of the Catholic community in Melbourne you are removing yourself from any of the decisions that have been made in the past?

Archbishop HART — No, I am saying that I believe that those particular decisions are wrong. I inherit the pain, and we are seeking to do what we can to address that pain.

Mr WAKELING — But do you not understand that in the eyes of victims that what you are in fact saying is, ‘I was not there at the time’ — —

Archbishop HART — That is factual.

Mr WAKELING — ‘Therefore it is not my responsibility’.

Archbishop HART — But I do accept the responsibility as the church — that the church failed lamentably. I do accept that responsibility.

Mr WAKELING — But you are the leader. You are the leader of the archdiocese.

Archbishop HART — That is correct.

Mr WAKELING — You have an obligation to those victims who have come before us.

Archbishop HART — That is what why we have sought to do what we have done in the Melbourne Response, and we hope that together we can move forward.

Mr WAKELING — If I may, Archbishop, with the greatest of respect, you are here as the representative of the Archdiocese.

Archbishop HART — That is correct.

Mr WAKELING — You have acknowledged to Mr McGuire the actions of Archbishop Little. You have acknowledged the confidentiality. You have acknowledged the cover-up. Do you not see that the community is seeking for you, as its leader, to take responsibility for these abominable crimes?

Archbishop HART — I will be saying in my concluding statement precisely that.

Mr WAKELING — So you will be?

Archbishop HART — Yes.

Mr WAKELING — There are various orders that operate within the Archdiocese, such as the Salesians and the Christian Brothers, and they have appeared before us. It is my understanding of the way in which it operates that they can only operate in an archdiocese if they are invited by the Archdiocese.

Archbishop HART — They take part in the ministry or the mission of the diocese at the invitation, and the ongoing invitation, of the local bishop, yes.

Mr WAKELING — Thank you. As a consequence of that, can that invitation be withdrawn by yourself?

Archbishop HART — Yes, certainly.

Mr WAKELING — Given the evidence that we have heard from both organisations that I just mentioned, where there has been acknowledgement of cover-up and abominable crimes have been perpetrated against many children in their institutions, do you not think it is within your obligation to in fact consider withdrawing their right to operate here in the archdiocese of Melbourne?

Archbishop HART — I certainly believe that anyone from those orders who has offended will never operate in the Archdiocese of Melbourne. I believe on balance we have to consider both the works that they

have undertaken over what period of time and whether or not there might be a culture which would compel me to look at the matter. At the moment my view is that if these matters are satisfactorily addressed, we would benefit from the few members who are left.

Mr WAKELING — But if I may say, Archbishop, you have not conducted an investigation into any of those organisations, have you?

Archbishop HART — In the role of the local bishop I cannot investigate. They are both orders of what we call pontifical right — they are under the Holy Father — and their ability to put their members within an area is beyond the Archdiocese of Melbourne. The only point in which I could become involved is whether I retain the services of a particular group, or of particular members of a particular group, within the Archdiocese. That is the only competence that I have.

Mr WAKELING — But your predecessor many years ago agreed for them to establish within your Archdiocese.

Archbishop HART — They would be taking part in education. They would be running schools or whatever.

Mr WAKELING — Yes, but your predecessor authorised it.

Archbishop HART — Yes.

Mr WAKELING — You have acknowledged that you have the right to remove that.

Archbishop HART — Yes.

Mr WAKELING — Would you acknowledge that many Catholics in the Archdiocese who send their children to schools that are run by either order would have an assumption that you, as the Archbishop, would ensure that those organisations are appropriate in the way in which they operate and their protection of children?

Archbishop HART — I would certainly believe that they would make that assumption, and I would be wanting to make that assumption too. That is why I am very careful. When a priest from one of these orders comes to the diocese, the superior cannot just say to Father Blogs, 'Right, you come from Sydney to Melbourne'. I have got to agree, and in doing so I always ask for appropriate warranties that their behaviour and way of acting is appropriate.

Mr WAKELING — But despite the fact that the order does not come under your control, you have the power, on your own motion, to withdraw their right to operate within your diocese if you do not believe that they are operating in an appropriate manner; is that correct?

Archbishop HART — That would be correct.

Mr WAKELING — Have you ever conducted an investigation?

Archbishop HART — I cannot investigate the particular order as a whole. I can certainly investigate how they are acting in this diocese, and I would want them to act in a way which reflected very clearly the respect for children and the right ways of acting with children that are incumbent upon us.

Mr WAKELING — Given the evidence, though, serious acts were perpetrated. It was covered up within the orders. What more evidence would you need for you to (a) conduct an investigation, but (b) and more importantly consider withdrawing their right to operate?

Archbishop HART — I would certainly look at any situation. I will not give an answer on the run today, as you would expect.

Mr WAKELING — I understand that you do not want to give an answer on the run, but I am thinking about the protection of those children.

Archbishop HART — Both of us agree that that is paramount.

Mr WAKELING — Unfortunately, Archbishop, you will only be judged by your actions. We are conducting an investigation. These are very important issues that have been raised.

Archbishop HART — They are important issues.

Mr WAKELING — And what the community is looking for is leadership, so I just put that to you.

I would like to just draw your attention to — and I do not ask you to comment — the extraordinary life of a priest named Vincent Kiss, who may be known to you, who was perceived by some in the media as a darling of Melbourne society whilst being a convicted thief, child molester and it appears at one time involved in operating a brothel in Melbourne. He is mentioned in order just to draw attention to the credible evidence that, when complaints were made about him to the Archdiocese, people were told that although he operated in Melbourne he was still under the direction of the Wagga diocese and the matter should be referred to them. Whilst not asking you to talk about the appalling criminality, can you explain to the community how someone who lived such an opulent lifestyle and who was photographed often with people of the ilk of Lillian Frank in the social papers can be seen to be holding their role as a priest? It is a concern for the community. Can you explain to the community?

Archbishop HART — I find that shocking as well as you do. He was a priest of the Wagga diocese. He lived in South Melbourne. He seemed to enjoy the freedom to carry on all sorts of activities, and I cannot be anything other than most strongly condemnatory of what he did.

Mr WAKELING — In the pastoral letter with which you have been provided and which is in front of you now, can I just ask you to read from the front page the first sentence of the second column, starting with ‘Although’?

Archbishop HART — It reads:

Although it has been said that the incidence of Catholic priests abusing their office in this criminal matter is no greater than that which occurs amongst professional classes in the wider community, the community quite rightly expects a higher standard of morality for clergy.

Mr WAKELING — This is a pastoral letter on sexual abuse dated 1 July 2010, so it is quite a recent document. You allege that the incidence of Catholic priests abusing their office in this criminal manner is no greater than that which occurs amongst other professional classes. We have had a significant body of evidence presented to this inquiry of people who were victims of abuse, specifically in the Catholic Church. We know that Professor Parkinson has had evidence led where he has said that incidence of sexual abuse has been perpetrated six times more than in any other religious organisation combined. We have also had evidence from St John of God where 15 of 60 brothers were convicted or alleged paedophiles. Do you stand by your 2010 comments?

Archbishop HART — That is truly shocking, and what I would certainly say is we have done our own studies on the number of priests that have worked in the archdiocese of Melbourne. I am aware that some of the evidence which has been given to the inquiry is clearly inaccurate, and I state that in the last 80 years 1748 priests have held an appointment in the archdiocese of Melbourne. We have 50 incardinated priests and 9 religious priests who have offended. This means that the percentage of priest offenders to the total number of priests is 3.375 per cent. Now this is not a figure that gives me any joy or pleasure. It is a figure which is consistent with the literature from the John Jay studies in America and is at the lower end of that scale. Some of the figures which have been quoted previously in this inquiry are rejected by the facts: 1748 priests have held an appointment, and 50 diocesan priests and 9 religious priests as offenders. That according to our calculations is 3.375 per cent.

Mr WAKELING — I thank you for that. Can I just ask: of that 3.375 per cent, how many include those matters that were dealt with by Archbishop Little when he dealt with those matters confidentially?

Archbishop HART — That is the totality of our knowledge.

Mr WAKELING — Okay.

Archbishop HART — In other words, that is all that we have been able to — that is the number that we have been able to discover.

Mr WAKELING — So you are saying that it is not in fact that figure, because you have in fact acknowledged that Archbishop Little dealt with matters confidentially, perpetrators were moved, these matters were covered up and none of these perpetrators were brought to justice?

Mr MOORE — Mr Wakeling, I can say — —

The CHAIR — Sorry, Mr Moore; I think the question is directed at Archbishop Hart.

Archbishop HART — I think I would stick with that figure in that, you know, this is what — going right through our records quite often so many of the things that occurred previously went on into later times, and as a result we have caught up with those numbers of offenders. Now I — all I am saying is we have 50 priests from the Archdiocese, 9 religious working in the archdiocese. This is the figure as I understand it. I cannot say more and I cannot say less, and I do not believe it is right to speculate.

Mr WAKELING — And Archbishop, I understand you were not there — —

Archbishop HART — Yes.

Mr WAKELING — but you cannot honestly believe that you can sit here and say with any certainty that the figure you have just provided to us can be a credible figure, when you have actually acknowledged that your predecessor, Archbishop Little, actively covered up, dealt with matters confidentially, no matter was referred to any police organisation and there were no records kept?

Archbishop HART — Except that what we have now encompasses anything that went to the Independent Commissioner after 1996. Now that is not an absolute answer, but at least it contributes to the understanding of the matter.

Mr WAKELING — So you acknowledge, then, that the figure is not accurate, because it is skewed because it is only dealing with — —

Archbishop HART — All I am saying is the figure is what I know. I would not mislead you other than that.

The CHAIR — Would you like to add anything further, Mr Moore?

Mr MOORE — All I would add is that the figures do include the priests that Mr McGuire and others have referred to earlier — Father Glennon, Father Baker, Father O'Donnell and Father Rubeo — and in terms of the records of the archdiocese for which we have been able to identify later movements, one is Father Baker, and he is included within the 50; the other is Father O'Donnell, who was referred to earlier, who is also included in the 50.

The CHAIR — Thank you.

Mr WAKELING — What about Pickering?

Mr MOORE — And Pickering is also included within the 50.

Mr WAKELING — I would like to bring to your attention the Melbourne Archdiocese's response to sexual abuse, which is the pamphlet which was developed in 1996. The then archbishop, your predecessor, Archbishop Pell, states that — and this is in 1996:

Regrettably, the Catholic Church has taken a long time to come to grips successfully with the issue — that being the issue of child sexual abuse. Do you agree with that statement?

Archbishop HART — I agree with it absolutely.

Mr WAKELING — In light of your frank remarks in regard to his predecessor, Archbishop Little, where you acknowledge that he dealt with matters confidentially, that he willingly and knowingly moved paedophile

priests, how can you stand by the comment that the Catholic Church has taken a long time to come to grips successfully with the issue, when in fact Archbishop Little was dealing with that issue very successfully?

Archbishop HART — I do not condone any cover-up, any moving of priests, and I think that the brochure was trying to bring us to a new point, it was representing a new start. That is all I would explain.

Mr WAKELING — Would you agree, though, that in fact the Catholic Church had been dealing with this matter in house, had been covering up these issues, and was forced, dragged kicking and screaming, to actually deal with this issue?

Archbishop HART — I do not think it was quite like that. I know that — —

Mr WAKELING — How would you put it?

Archbishop HART — I know that the then Archbishop Pell was quite determined, as I was determined — we both arrived at the same time — to address the matter so that the church and society could be confident that the uncertainties, the inadequacies of what was done could be replaced by a clear and independent system, and I believe that the Melbourne Response, with whatever inadequacies it has, does that.

Mr WAKELING — But you would agree that Archbishop Little would have been aware that criminal sexual abuse of a child was a serious criminal offence?

Archbishop HART — Yes.

Mr WAKELING — So you would acknowledge that he would have known that?

Archbishop HART — Yes.

Mr WAKELING — You would acknowledge that he dealt with these matters confidentially?

Archbishop HART — Yes.

Mr WAKELING — You are unaware of how many matters he dealt with?

Archbishop HART — That is correct.

Mr WAKELING — And you also acknowledge that he knowingly moved priests?

Archbishop HART — Certainly in the case of Baker, yes, and you can draw presumptions from that too.

Mr WAKELING — Given the gravity of what you have just confirmed, has the archdiocese ever conducted its own internal investigation into how this abuse became so endemic over a period in the schools and parishes during this period of time?

Archbishop HART — We have investigated individual complaints through the Independent Commissioner, but we have not had a systemic investigation, no.

Mr WAKELING — Would you acknowledge that the behaviour of predators was endemic in many of your parish schools?

Archbishop HART — I think we have got to talk about parishes and schools separately. Priests are appointed to parishes and not all their offences would necessarily have been with schools. We have mentioned we have got 50 diocesan priests, 9 religious; 12 of those 50 were responsible for more than half the complaints, so that there were some priests who really committed heinous crimes and went on doing it. We have to admit, at least to that extent and at least to the extent that the church was not addressing it, that it was systemic.

Mr WAKELING — To pick up on a point that I think was raised by Mrs Coote, do you believe though you have an obligation to actually go back and investigate these matters to identify if there are other victims out there — and we do know that there are other victims out there who have told us that they have not come forward? Do you believe that you have an obligation to lead such an effort?

Archbishop HART — I believe that we have been to this small instance proactive in the sense that we have been giving invitations to people to come forward, and we note that this has happened as a gradual matter. One of the things that we all grapple with — and one of the things that we grapple with in the whole matter of reporting, about which I am going to make some suggestions at the end — is that the pain and suffering of each victim is so great that some cannot bring themselves to come forward or to speak about it at all. I think the only thing that we can do is to try and provide a climate where they can speak about it and where the matter can then be addressed.

Mr WAKELING — If I may on a final point, if there are allegations of criminal abuse, are those matters reported to the police?

Archbishop HART — Our situation is that all matters go to the Independent Commissioner. My wish would be that all matters be reported to the police. I know that when they go to the Independent Commissioner things have not been reported because the victim has resisted that. In our recent times the Independent Commissioner has upheld 304 complaints: 115 of those were related to priests who were already dead; 97 cases were reported to the police; 87 had been reported before going to the Independent Commissioner; and 10 were reported after a complaint was made to the Independent Commissioner. Then that leaves 76 who were encouraged by the response to go to the police.

In at least 25 of those cases the complainant expressed some reluctance to report the matter to the police. That is why in our proposal we are recommending what we did discuss with the police in 2010, and it is this — that we want to make sure that everything goes to the police because they are the best qualified to investigate it. We believe it will work like this: through the extension of mandatory reporting, and secondly a new way of reporting offenders to police that protects the privacy of the victims who want to remain anonymous. That would therefore mean that everything goes to the police, and it is a much better situation for the law, it is a much better situation for us in the Church. We were in discussion with the police on that in 2010.

You may remember there was some discussion about how the Independent Commissioner would act in his relationship with the police. We made some changes to his delegations to make sure that some of the wishes of the police were taken into account, but then when we got to this proposal — that reporting of every offender without the acknowledgement of the name of the victim — the police at that time were not able to go along with that.

Mr WAKELING — Archbishop, I have provided to you a document, which is a copy of a report of the Victorian Parliament's Crime Prevention Committee, which in 1994–95 was a joint parliamentary committee similar to this one, and which conducted an inquiry into combating child sexual assault which was looking more generally — —

Archbishop HART — Yes.

Mr WAKELING — and not in terms of specific non-government organisations. If I take you to the second page of that, on page 308 of that report — —

Archbishop HART — Thank you.

Mr WAKELING — which is 11.5.1 and which is titled 'Obligation to report' the committee found in its report:

What does concern the committee however, is the number of cases which come to the attention of the clergy outside the confessional and which are never reported to the relevant authorities.

If I can take you to the third page, which is page 309 of that report, recommendation 129 states:

The committee recommends that protocols be developed within religious organisations to ensure that the SART — which was the sexual assault response teams in Victoria Police — is immediately notified of any suspected sexual assault.

You will note above that Monsignor Cudmore was a participant in that inquiry, so clearly the Catholic Church was aware of the inquiry and was a participant in that inquiry. Can you explain to the committee how in 2013 you will still not agree to the recommendations handed down by the Crime Prevention Committee in 1995?

Archbishop HART — First of all I have to say, and it is my fault, that this is the first time I have been aware of that. But secondly, what I am proposing, and what I proposed to the Chair last Thursday, is that the church supports the extension of mandatory reporting to ministers of religion in addition to the existing categories of doctors, nurses and teachers with an exemption for information received during the rite of confession. That is what we are proposing.

Mr WAKELING — But you would concede that in 1995, when this report was tabled in the Victorian Parliament — which was a very significant report dealing with heinous crimes of child sexual assault within the state — that it would have been assumed that your predecessor would have read recommendation 129 that directly related to the operation of religious organisations?

Archbishop HART — The predecessor at that time of course was Archbishop Little, and Monsignor Cudmore was his vicar-general.

Mr WAKELING — I understand.

Archbishop HART — Then in 1996 of course, in July, Archbishop Pell became the Archbishop. I became the Vicar General on 1 September, and I suspect there was not a great deal of handover because we were really trying to get on and address the whole issue with the setting up of the Melbourne Response. As I say, the first time I have seen that is today.

Mr WAKELING — Would that not just demonstrate that there was a complete and utter breakdown in the way in which the church has dealt with this issue?

Archbishop HART — I would simply say that it was not handed on to us. That is all I would say.

Mr MOORE — Ms Crozier, could I perhaps just add a comment to that?

The CHAIR — Yes.

Mr MOORE — Mr Wakeling, in October 1996 when the Melbourne Response was established, it was established following discussions with the police, and arrangements were reached between the Independent Commissioner and the then Assistant Commissioner of Victoria Police about a reporting protocol. Mr O'Callaghan, I think, has already spoken about that. Those arrangements continued until there were discussions with the police in 2010 and 2011 about a new way of formalising that arrangement in a formally documented protocol, and it is those arrangements that did not proceed, as the Archbishop has mentioned.

Mr O'BRIEN — What I would like to ask, just briefly on those numbers, is: does that mean you are now undertaking an independent internal investigation — those statistical numbers you provided to us.

Archbishop HART — Sorry, I am not quite clear on what your question is.

Mr O'BRIEN — You provided us with statistical information — 1748 priests; where have you compiled that?

Archbishop HART — That is the number of priests for whom we have records who have worked in the archdiocese of Melbourne.

Mr O'BRIEN — But how have you counted them up and when did you compile that material?

Archbishop HART — We have compiled that from our own records in the Vicar General's office as to who held appointments at what time, or who worked at this college or school if they were priests, and making a total listing. That is how it was made.

Mr O'BRIEN — And when did you commence that activity, Archbishop Hart?

Archbishop HART — We maintain regular records. It would have happened more recently. Mr Moore?

Mr MOORE — The Vicar General’s office maintains records for all priests working in the Archdiocese, so it was a matter of reviewing those records in the context of some of the questioning that had been put to us by the committee.

Mr O’BRIEN — And now for the fourth time, in response to some of the questions, so after this committee has been formed, you have gone through a process of assembling that material.

Mr MOORE — During the course of 2012–13.

Mr O’BRIEN — Thank you.

Mr MOORE — The records are there. It was a matter of reviewing the records and collating the results.

Mr O’BRIEN — And further to many questions from my colleagues, do you accept, Archbishop Hart, either in your time as a Vicar General or now as Archbishop, that you could have started to commence such a systemic investigation into the cultural issues that this inquiry is now tasked with when you first took office in 1996?

Archbishop HART — The way the church is structured, the Archbishop is the leader of the diocese and he enunciates the policy, and obviously, particularly in that time between 1996 and when I took office in June 2001, the real concentration was on the establishment and the functioning of the Melbourne Response so that we made sure that we were trying to get that right. This listing was a later thing.

Mr O’BRIEN — I accept you said that a number of times as your reasons. Do you accept — and we will be hearing from the then archbishop at the time, now Cardinal Pell, next week — looking back now, that you ought to have established a systemic investigation across the cultural issues so that you could even provide this information at a much earlier date than the calling of this inquiry?

Archbishop HART — I am certainly open to that.

Mr O’BRIEN — All right, because I would like to provide some documents to you, if I could in a moment, but are you aware of Father Phil O’Donnell?

Archbishop HART — Yes, a former priest.

Mr O’BRIEN — Are you aware of correspondence he sent to Monsignor Cudmore, your predecessor as Vicar General? It is that letter there.

Archbishop HART — That first one?

Mr O’BRIEN — Yes.

Archbishop HART — It is probably the first time that I have seen it.

Mr O’BRIEN — All right, because you will see the date on it. If you could just give us the date.

Archbishop HART — Twelfth of June 1996.

Mr O’BRIEN — Which is just a few months before you commenced as Vicar General on 1 September. That is correct, isn’t it? Archbishop Hart, that is when you commenced, 1 September? It is a few months before — —

Archbishop HART — First of September 1996; that is correct.

Mr O’BRIEN — And was there any sort of file handover, given the importance of this issue, where Monsignor Cudmore would have said to you, ‘Here are the matters that are live’?

Archbishop HART — When Archbishop Pell was appointed and took possession, Monsignor Cudmore was away and he was not present at Archbishop Pell’s — —

Mr O'BRIEN — I see. I might press that with Cardinal Pell if needs be. Can I just take you to the letter, then, because I want to keep moving through this letter.

Archbishop HART — Right, sure.

Mr O'BRIEN — On the third page of it you will see there is a highlighted passage there. At the bottom there you will see the commencement of a highlighted passage.

Archbishop HART — Is it:

This leads me to yet another dimension of this tragic scandal?

Mr O'BRIEN — Yes. If you could just read on.

Archbishop HART —

I find it difficult to reconcile how the church authorities have, or at least should have, specific allegations against priests, and that these priests are still on active archdiocesan appointment.

Mr O'BRIEN — And over the page?

Archbishop HART —

I do have to question whether the competent ecclesial authorities have the will to address the sad reality of clergy child sexual abuse.

Mr O'BRIEN — Father O'Donnell, at the time, poses a number of questions for the Church which now, in hindsight, seem rather prophetic, and if I can ask you to read the questions he posed?

Archbishop HART —

Do we just sit and wait until the police get enough information to lay formal charges?

Do we wait until Broken Rites amasses enough information to go public?

Do we wait for the media to slowly, but surely, expose each clergy child sexual offender as they come to court?

Do we wait until shows like *Four Corners* make a case for cover-up against the Catholic Church?

Mr O'BRIEN — If you could continue the next two as well.

Archbishop HART —

Every time an individual priest is exposed in public the credibility of the church and its priests is lessened.

I liken it to having each tooth extracted one at a time — without an anaesthetic!

Mr O'BRIEN — That is again looking at it from the church point of view, but can you see that Father O'Donnell was at least, in that letter which you did not see, trying to make your predecessor and the then Archbishop aware of the importance of a more systemic — —

Archbishop HART — Absolutely, absolutely.

Mr O'BRIEN — Could I just get you to read on a bit please, Archbishop Hart.

Archbishop HART —

If any external source can substantiate a specific complaint against Father Baker after his removal to Eltham it opens frightening possibilities.

It also worries me that this issue seems to be largely driven by lawyers and issues surrounding litigation.

Mr O'BRIEN — Can I just pause you there? That is consistent with the extract from Bishop Connors that this committee has heard. Would you accept that that was the approach then?

Archbishop HART — Certainly I think that that was the matter, and I mentioned earlier I think, in response to Mr McGuire or to the Chair, the precise situation regarding the complaint about Baker and his transfer to Eltham.

Mr O'BRIEN — I need your answers just to be short if they can be so we can keep moving unless there is a need to elaborate, if we could Archbishop Hart, and we will look at the issue of the legal situation now, in a few moments, but if I can just ask you to read through the next part, please. It starts with 'Whereas'.

Archbishop HART —

Whereas these obviously have great implications there are also many other aspects of the scandal that are not being addressed.

I was impressed by the Australian foreign minister recently when he announced an internal investigation into possible child sex offenders within his department. By publicly being proactive in the internal forum he will both expose offenders and clear the good name of the vast majority who are 'tarred' with this brush.

Very simply, why can't we as an archdiocese do the same?

Mr O'BRIEN — Now having read that letter, do you accept that that is something that you could have done and to the extent that there are systemic issues, they would have been better drawn out?

Archbishop HART — I believe that at that time we arrived, the absolute paramount matter was to try and help the victims. I agree that these issues are all things that could have been done, but we were coming from a position where we were starting, and we really wanted to give the victims the maximum opportunity and then, on the other hand, to address any offenders and to get them out of ministry and to address the matter. Now obviously in the effort to do that — and that took quite a number of months and years to do that — certainly there are other things that might have been done.

Mr O'BRIEN — Sure, but in terms of your numbers, even the numbers you give us to respond to Mr Wakeling's question, would you accept that that number of 3.37 is a conservative minimum figure in statistical terms? It is the number of known offenders?

Archbishop HART — Certainly.

Mr O'BRIEN — And what has not been fully or systemically investigated and what was not systemically investigated at the time was the potential for unknown offenders?

Archbishop HART — I think that would be true not only in the Church but elsewhere, but nevertheless that is true.

Mr O'BRIEN — That is true, and can I just get you to read on over the page because that is another thing that Father O'Donnell drew to the attention of the then Vicar General and through the Archbishop.

Archbishop HART —

And so, I repeat the request that the competent ecclesial authorities in the Archdiocese of Melbourne take the initiative and conduct an internal investigation of possible child sexual abuse by priests of this Archdiocese.

Mr O'BRIEN — If I could get you to skip two paragraphs on, because he raises a specific problem that I have just raised with you about the potential for unknown offenders to remain undetected. Could you read the one that starts with 'The sad reality'?

Archbishop HART — It reads:

The sad reality is that some of these child sex abusers are multiple and repeat offenders. We have seen this in the Ridsdale — which is Ballarat —

and O'Donnell cases. We also know that what actually went to court is the 'tip of the iceberg'.

Mr O'BRIEN — So without having that systemic investigation, we are still left with the potential that there has only been the tip of the iceberg revealed in your figures; do you accept that?

Archbishop HART — I would believe that the proactive work that we have done now does not take away but lessens.

Mr O'BRIEN — You have investigated 300 cases, and in those cases 97 per cent have been accepted by the Independent Commissioner.

Archbishop HART — That is right.

Mr O'BRIEN — Do you accept those findings that there were 97 per cent cases of abuse accepted by the church?

Archbishop HART — Yes.

Mr O'BRIEN — And in those figures, does that include, for example, issues that went on in the seminary?

Archbishop HART — Yes, as far as I know.

Mr O'BRIEN — Because we have seen evidence about Father Paul David Ryan, and that is in a second document that I would like you to turn to. It is under tab 3. You will see it is an old letter. There is a first letter, and then the second letter is dated 19 February 1977. I will read it to you, but it says on the third page:

Following some information it transpired that for at least the preceding 18 months Paul had been regularly involved in overt homosexual behaviour with other students. Altogether perhaps six others were involved. Mutual masturbation, massaging —

et cetera. But what is concerning is the second paragraph on the page which says:

For myself, I do not feel any antipathy for Paul. I suppose any resentment I may have deep down is due to the harm he may have done to some of the younger students here. Certainly a couple of very naive, innocent boys were among his accomplices and our task here will be to assist in their rehabilitation.

There has not been any known public systemic investigation into issues that occurred at the seminary across the various priests, or potential priests, amongst all the orders in Victoria that were training there, has there?

Archbishop HART — No as far as I know, although I would say briefly that what went for screening back in my day, over 50 years ago, and what goes for screening now in terms of psychological screening, regular reviewing, regular interviewing, regular checking, ministry and parishes, means that the seminarians of today are certainly much more highly trained, much more trained in human values and relationship, and much more carefully scrutineered.

Mr O'BRIEN — But in terms of the tip of the iceberg issue, where we have these unknown offenders, you could not tell me today who were those six others who were involved in activities, and some of them were said to be boys?

Archbishop HART — No, I could not.

Mr O'BRIEN — And we do not know what became of them in the various dioceses or orders?

Archbishop HART — No.

Mr O'BRIEN — Would you accept that it is still possible now to undertake a systemic investigation, and in a sense that is partly what the royal commission and our parliamentary inquiry are tasked with or dealing with, but it is still possible for the Church to undertake its own independent coordinated investigation?

Archbishop HART — I think you would have to think about whether a body reviewing itself is the best way to go.

Mr O'BRIEN — It can do so with independent processes, can't it?

Archbishop HART — Yes.

Mr O'BRIEN — And to look at the cultural issues, such as celibacy and issues like that, which are alive in the Catholic community? Would you accept that, Archbishop Hart?

Archbishop HART — I believe there is no relationship between celibacy and paedophilia. I believe the problem in a lot of these cases is that people have not lived their priesthood. Priesthood is always supported by prayer, and supported by balanced relationships with people. If it is turned in on itself, then we start to get the danger signs, but the literature that I have read means that there is no literary indication that celibacy is the problem. It is the living of celibacy.

Mr O'BRIEN — But you have not undertaken an investigation into that one issue, and that is only one issue in the cultural practices of the church.

Archbishop HART — Apart from the international writing, no.

Mr O'BRIEN — Nothing in Victoria?

Archbishop HART — No.

Mr O'BRIEN — I am going to jump ahead, given the time, but I would like to turn you to the document behind tab 8. It is a psychiatric assessment dated 13 July 1998 of Desmond Gannon. Do you have that?

Archbishop HART — I have that, yes.

Mr O'BRIEN — Could I just get you to read out the paragraph that describes his sexual history, Archbishop Hart. No, in the document I have — —

Archbishop HART — It is all right. I am just getting myself organised.

Mr O'BRIEN — You have to get your notes.

Archbishop HART — I want to make sure that I am on track. I want to be accurate with you. Right, we are on page 3.

Mr O'BRIEN — I am just asking you to read something in the document and then I will ask you some questions.

The CHAIR — Which page is it, Mr O'Brien?

Mr O'BRIEN — Page 3, and it is highlighted: 'Sexual History'.

Archbishop HART — It reads:

Father Gannon recalled early sexual experience in sexual play with peer boys and girls at about 7 or 8 years old. During puberty at about 13 years old he recalled being attached to one male peer with whom there was mutual penetrative sexual activity on about six to eight occasions. At about 15 years old he attended school socials and had a girlfriend but there were no sexual relationships though he did think that he was in love at the time. Sexual matters were never discussed in his family and his knowledge was derived from his peers. He recalls a single talk given to a group by a rector —

it must be by a priest —

when he was about 14 years old at secondary school.

Mr O'BRIEN — That is consistent with the sort of practice and training for many of his priests at the time in terms of minimal discussion of sexual issues in the community?

Archbishop HART — In my time, we were seen by a medical doctor and a psychiatrist. We were interviewed by a number of people prior to admission. There were some talks on sexual matters and regular reviews, and a lot of the interaction was with the individual students, in other words. Okay?

Mr O'BRIEN — Could I just get you to read then his sexual offences, which are in the next paragraph.

Archbishop HART —

Father Gannon said his sexual offences ranged over the years from about 1957 to 1979, though this last date may stretch to 1981. He said there were about 15 boys with whom he variously formed sexual relationships. He estimated that there were between 51 and 100 boys between 13 to 15 years old that he had touched in a sexual way.

Mr O'BRIEN — Can I pause you there. There was no public investigation at the time his offences came to light. Do we know or have any idea of who those boys might be?

Archbishop HART — No.

Mr O'BRIEN — That is something else that could have out in an investigation. Do you accept that?

Archbishop HART — Yes.

Mr O'BRIEN — Can we just read on then?

Archbishop HART — Where do you want me to start?

Mr O'BRIEN — Over the page I have highlighted another bit.

Archbishop HART — A number of the relationships — are you happy with that?

Mr O'BRIEN — No, over the very next page, onto page 4.

Archbishop HART — Yes:

A number of the relationships were quite long-term, lasting for between one and about three years with regular weekly or monthly sexual activity.

Mr O'BRIEN — This is with the boys; I should confirm that.

Archbishop HART —

Although there was some attempted penetration, Father Gannon says this always failed and that penetration did not occur amongst his offences. He said that early in his priestly ministry he became interested in the problems of pubescent boys with regard to masturbation. He was concerned to understand adolescent development and the onset of the anxiety associated with their sexuality. Unfortunately, he said, it led to closer sexual relations.

Mr O'BRIEN — I have seen a document like this for this priest and I have seen some other disturbing documents for Father Paul Ryan. I have more of this document to show you, so I will keep it out. Do you accept that that poses some disturbing thoughts for the Church in relation to what this priest was going through?

Archbishop HART — I think it poses very disturbing thoughts for the Church with regard to this particular priest and it renews my resolution at the other end about what I am trying to do about his status. But then, secondly, it poses some disturbing thoughts with regard to the checking before the seminary and checking during the seminary, and I would assert much more strongly — —

Mr O'BRIEN — It is more than that. This is a priest who is struggling with his sexuality and has struggled with it all his life.

Archbishop HART — That is right.

Mr O'BRIEN — What is the Church doing to address that fundamental, core practical issue with its priests?

Archbishop HART — We certainly are doing a lot more now. Each year in the seminary we have a formation on human relationships and sexuality. There is an intensive in July every year.

Mr O'BRIEN — We will just deal with the seminary. It is accepted and we have had other evidence that there has been a shortage of priests coming through the Victorian seminaries. You would accept that, would you not?

Archbishop HART — We are ordaining about a quarter of what we might have ordained back in my day.

Mr O'BRIEN — You said, I think in evidence in relation to the orders, that they would benefit from the few members who are left. In other words, in some of these orders, say, St John of God, there is virtually no-one left in the order.

Archbishop HART — That is right.

Mr O'BRIEN — I put it to you that there are problems in attracting people to the profession, and some of them may be the cultural issues such as celibacy. Do you accept that?

Archbishop HART — I accept that there is a shortage. I do accept now that what we do is much, much more thorough and we are dealing with people from a very modern culture where we do have to be very careful. So I accept that there is a shortage.

Mr O'BRIEN — We also want to be careful with our children and that is why if there are problems with celibate priests, or purportedly celibate priests, who are exposed to children, we as a community remain concerned, including Catholics. Do you accept that?

Archbishop HART — I could not agree more.

Mr O'BRIEN — Could I take you then to page 5 of this assessment, where it says 'Issues relating to the reason for assessment'. Do you see that? It is at the bottom of the page.

Archbishop HART —

Father Gannon has come some way along the path of realisation about the meaning and effect of his sexually abusive behaviours. However, this understanding is only in an incipient phase. He minimises the offences, shows scant understanding of the emotional consequences experienced by his victims and maintains resentments against his opponents in order to avoid a genuine understanding of the essential nature of their grievances against him. It is clear that sexual needs, and needs for intimacy and affection, were confounded by him and he was unable to extract himself from an entrenched set of deviant cyclical sexually abusive behaviours.

Mr O'BRIEN — I will pause you there, Archbishop Hart. Is that not an admission of the very cultural problem that I was putting to you across the whole church that is exhibited in this paedophile priest's psychiatric assessment? I still have more for you to read.

Archbishop HART — I certainly think it is exhibited — sorry?

Mr O'BRIEN — I still have more for you to read. I stepped over your answer.

Archbishop HART — I certainly think that is true of him. That is why I think the whole question of screening, that we agree because of our families and children, is so important.

Mr O'BRIEN — Can I then ask you to read the very next sentence, Archbishop Hart?

Archbishop HART —

A number of the relationships were quite long-term, lasting for between one and three years with regular weekly or monthly sexual activity.

Mr O'BRIEN — Sorry, no. The very next sentence on page 6, starting with 'He therefore maintained'.

Mr O'BRIEN — From the top of the page, the last words you read were 'deviant cyclical sexually abusive behaviours'.

Archbishop HART —

He therefore maintained a deep division in his personality between his sexual needs and his priestly ministry which has never been resolved satisfactorily. This situation suggests strongly that Father Gannon is still at risk of enacting deviant sexual behaviours.'

Mr O'BRIEN — Again, is that not a question that the Catholic Church, not only in Victoria but probably in this country and the world, needs to address in a cultural sense, one way or another and probably in a public way, to identify whether that is a fundamental cultural problem with the question of celibacy, rather than just assuming that it is not?

Archbishop HART — I note, of course, that this assessment occurred at a later date, after he had been removed from ministry.

Mr O'BRIEN — That is not an answer to my question.

Archbishop HART — I agree it is a serious point. The extent to which it needs to be addressed with regard to the past is a question. I assert very strongly that these matters are being very carefully addressed in the present, and have been so since Archbishop Pell and I came to responsibility in 1996.

Mr O'BRIEN — That is a question of screening within the rules of mandatory celibacy. What about the more fundamental question: should we have a rule of mandatory celibacy?

Archbishop HART — I do not have an option in that matter.

Mr O'BRIEN — You do not have an option, but do you agree as the Archbishop of the Catholic Diocese of Melbourne that it is a question that the hierarchy, from the Pope down, and Cardinal Pell is now on his review, need to seriously consider in relation to this horrific issue?

Archbishop HART — No, I believe that celibacy in the Catholic priesthood is an important part of the way of relating to people, being there for everyone rather than for one person, but it needs to be supported, as I have said, by prayer, by proper relationships and by proper spiritual supervision. I am very emphatic about that.

Mr O'BRIEN — I can see that and I want to take you to another paragraph, because I will ask you to reconsider your views. Could you read the next two assessments, which are his spiritual assessments, because I put it to you that this has even more indictable assessments not only on Father Gannon but also on the difficulty of celibacy for a modern priest.

Archbishop HART — You are referring to the point of compartmentalising, of course:

In all areas of formal prayer, private devotions, charity, priestly duties and church life, Father Gannon came across as a very spiritual man. He has developed the prayerful habits of a priest and fulfils his obligation to the divine office, Eucharist, spiritual reading, retreats et cetera without difficulty. He finds the promises of obedience, celibacy and living simply 'easy enough' to keep.

Mr O'BRIEN — Stop there!

The CHAIR — I beg your pardon, Mr O'Brien. Sorry, Archbishop Hart.

Mr O'BRIEN — That is the bit that is of most confounding language. Can you read it again, please?

He finds the promises of obedience, celibacy and living simply 'easy enough' to keep.

Archbishop HART — That is right. It shows the disconnect in his mind. In other words, he has got it in a box. He has got what the Church asks of him in this box, and then he has this other box over here where he can do what he likes. This to me says that there is a lack of integration in his sexuality and in his person. That to me underlines the need for proper integration, which is what we do work on very hard these days.

Mr O'BRIEN — The report concludes that sentence by saying:

Given Father Gannon's recent history of imprisonment for sexual offences, it is surprising that he would claim that he had no difficulties with celibacy.

So these two boxes or this compartmentalising that you referred to, is that not a problem that the Church is finding itself in now? It has put itself up as a moral teacher following the teachings of Jesus Christ in relation to issues that it says it has a moral stance on, but within its own priestly order the failings have been so graphic and the failings of the Church to then deal with those failings of the individual priests as a church in this state and beyond mean that it is in really serious danger of not being able to conduct its moral task or therefore any other task. Do you accept that? That is the challenge that it is in at the minute.

Archbishop HART — I accept that there are too many who fail. Even if you take that percentage that I gave you, and even if you accept that or build it up, you are still left with 96 per cent of fellows who live their celibate life, who are devoted to their people and who are absolutely outraged at what these fellows do. I have not wanted to play that up much today because I think the important thing is that we must get it right for the victims.

Mr O'BRIEN — One paedophile priest is one too many in this state, isn't it?

Archbishop HART — Absolutely.

Mr O'BRIEN — Phil O'Donnell was one of those priests who tried to get the church to do an independent systemic investigation in 1996, and it seems to me that your predecessor did not even pass you his letter. That is the truth, isn't it?

Archbishop HART — I had never seen that letter until today.

Mr O'BRIEN — Can I just get you to some other matters in relation to the legal response. I will get you to look at the document behind tab 2, which is your letter to our committee of 16 May 2013. You do not need to look at that for long. I can just put it to you that what you have effectively agreed to do there in relation to the statute of limitations is to accept an amendment to legislation so that in a sense you could have an extension of the limitation periods in part 2A of the act, which would apply to claims against those in a special relationship with the child, which you would analogise to be a priestly relationship. That is in essence correct? I see Francis Moore nodding, and I just want to confirm that is — —

Archbishop HART — We are genuinely trying in these suggestions to creatively provide a mechanism to help the committee in some possible recommendations. In other words, we are trying to see that this relationship between a priest and a person is in some way analogous to the responsibilities which a parent has. Therefore if a parent were to cause their child such harm, the normal requirements of law, which allow the clock to start ticking at 25 and go on till 37, that much longer time than the other statutory requirements seems appropriate to indicate society's determination to allow these matters to be easily addressed.

Mr O'BRIEN — Over the page you acknowledge that in the Melbourne Response and Towards Healing you do not rely on limitation periods at all.

Archbishop HART — That is right.

Mr O'BRIEN — If you are genuine in your desire to be repentant and to deal with these matters, would you not simply allow that more general position of an extension of the limitation period to apply in all cases, not just those within the Melbourne Response but in civil cases as well?

Mr MOORE — We are.

Mr O'BRIEN — In civil cases as well?

Mr MOORE — Yes. This is a suggestion for the Limitation of Actions Act, which would apply to civil litigation if civil litigations commenced.

Mr O'BRIEN — It has limitations on it. You are not saying that you would extend limitations in all cases, because you have actually said in your letter a shorter limitation would apply not just for victims et cetera. You are only prepared to go to the extent that it should go with a parent and child; is that not correct?

Mr MOORE — What we are suggesting, Mr O'Brien, is that if a child wants to commence litigation, once they have reached adulthood, they will have up to the time that they are 37 in which to commence that litigation against the church.

Mr O'BRIEN — Yes. Anyway, I should accept your admissions without challenging at this point because we can take up the detail in our consideration and recommendations. What I would like to ask in relation to the civil proceedings — and you have accepted that some people have done better outside of the Melbourne Response — is that one of the big complaints about the Melbourne Response is it has that artificial cap at \$75 000. The fourth document, which you do not need to see, is a cheque for \$450 000, a copy of which we were provided by the Fosters. We had some very frank evidence from the Chairman of the Compensation Panel. If the Church was truly trying to do the best thing for victims and repentant of its sins as a church, why does it not accept unlimited compensation?

Archbishop HART — I believe every victim who comes to the Independent Commissioner has the option of going through the process and going to compensation and receiving counselling. If they wished to have access to the courts, the church will enter that process with them, if they want a greater amount.

Mr O'BRIEN — We have heard about letters that had references to playing hardball. Do you accept that that is an approach you have adopted in the courts?

Archbishop HART — Sorry, I did not get that word.

Mr O'BRIEN — Hardball. There is correspondence which says that litigation will be strenuously defended.

Archbishop HART — I believe if a person enters into litigation, then whatever applies in that forum has to apply.

Mr O'BRIEN — One of the things that applies in that forum is a client's instructions, or the church's instructions. You can instruct your lawyers to settle claims, can't you?

Archbishop HART — And that we have done.

Mr O'BRIEN — You have done that in a way that has revealed more compensation payable outside your Melbourne Response than was payable inside, haven't you?

Archbishop HART — Whatever option the victims feel they wish to take, we would respect that. I am not saying this to be insensitive to their very real pain.

Mr O'BRIEN — One of our options is to get independent legal advice, and your internal system again does not even pay for the provision of independent legal advice. Are you aware of that?

Archbishop HART — Again, the victim has to be free as to what they choose.

Mr O'BRIEN — But if they are being encouraged to go into your system, ought they not have a system that receives independent legal advice about that, or do you not think victims deserve a lawyer?

Archbishop HART — They have a freedom to get whatever advice they want. I think I would leave it at that.

Mr O'BRIEN — If they have been abused by the church, do you have any obligation to pay for their legal fees?

Mr MOORE — Mr O'Brien, I think that — —

Mr O'BRIEN — I would prefer the first answer to come from Archbishop Hart, and then I am happy — —

The CHAIR — I think the question was directed to Archbishop Hart, and then Mr Moore, you may respond.

Archbishop HART — We do not pay legal fees for the perpetrator, and we do not believe the payment of legal fees for victims is appropriate either.

Mr O'BRIEN — Philosophically you do not think victims should have a right to a lawyer in your system?

Archbishop HART — They have the freedom, but they need to choose what they want to choose.

Mr O'BRIEN — How do they choose that without giving independent legal advice?

Archbishop HART — They are able to do that.

Mr O'BRIEN — At their own expense.

Archbishop HART — The only thing we are saying is in our system a decision was made not to fund legal expenses of either party.

Mr O'BRIEN — Can I put it to you that there is another thing at play here? How many cases have actually run to judgement in Victoria since the Melbourne Response was initiated?

Archbishop HART — None in Victoria. Some have been settled by mediation.

Mr O'BRIEN — You have settled them in circumstances where the court has not made a finding of the liability of the church. That is correct, isn't it?

Archbishop HART — There has not been a court finding —

Mr O'BRIEN — That is right.

Archbishop HART — So the answer is yes.

Mr O'BRIEN — And that is a very convenient thing for the Church, is it not, because it means that there is a perception that the church cannot be sued for these matters, is there not?

Archbishop HART — We have certainly said that we will always be ready to enter — if the choice of the victim is to enter into litigation, then the Church will enter with them.

Mr O'BRIEN — Are you saying that you have never settled litigation for the purposes of keeping a precedent that the Church would not enjoy on the record books — —

Archbishop HART — No, we have settled on the merits of the matter concerned.

Mr O'BRIEN — All right. Do you accept that it could look convenient to the Church that it is settling cases for a higher amount — a substantially higher amount — to the tune of \$450 000 in just one case, which the poor family took outside the system, to all the other cases, the 300-odd cases, that have had either a maximum compensation, without legal fees, of either \$55 000 or \$75 000?

Archbishop HART — Both you and I know that we are at the pointy end of things where people are really suffering, and therefore in giving them a choice to either go to the courts or come to our system — is a choice which they make. People may interpret our motives. We are seeking to enter and to engage with the victims in the best way possible and, we would hope, in a way which causes the least amount of pain.

Mr O'BRIEN — Do you accept that these are victims; they did not have a choice to be abused? They were often children, and they are damaged people with serious issues, often.

Archbishop HART — But I do believe that our system is established precisely to provide an alternative to the burden and the struggle and the difficulty of the legal process.

Mr O'BRIEN — Without a legal adviser for the victim; that is what you have just said to me.

Archbishop HART — They have that freedom, if they want it.

Mr O'BRIEN — And they have got to pay for it themselves.

Archbishop HART — Yes.

Mr O'BRIEN — And you have managed to keep all the cases out of the courts to judgement for 20 years, so we do not know, so far as the Victorian community is concerned, whether the church is liable for these actions or not, at law, do we?

Archbishop HART — I have said before we are certainly prepared to either have them go through the normal course and go to law or to go to our system, and we stand by that.

Mr O'BRIEN — Are you aware of the case of *JGE v. The Trustees of the Portsmouth Roman Catholic Diocesan Trust* — or you, Mr Moore?

Mr MOORE — I am not, Mr O'Brien.

Archbishop HART — No.

Mr O'BRIEN — It is a recent case in England where the Roman Catholic bishop, such as yourself, Mr Hart — Bishop Hart; I apologise again. I do not cross-examine or question many bishops — —

The CHAIR — Archbishop.

Mr O'BRIEN — Archbishops either. In this case the bishop there was held vicariously liable as a more recent decision and expansion of the law of vicarious liability. So in England, at least, bishops in your situation — and archbishops — are held vicariously liable, because of the relationship with priests, for the actions of those priests. Do you accept that that is a position that ought to operate, based on your answers earlier, in Victoria?

Archbishop HART — I think that is a legal matter, and I would want to consider the implications. But I have said previously that I accept responsibility.

Mr O'BRIEN — Are you guided by your lawyers? What is your moral response to that?

Archbishop HART — My moral response is that I accept responsibility. Obviously if we go into the courts, we go in guided by what applies in that forum.

Mr O'BRIEN — Have you ever sought different legal advice to the present lawyers who have advised you to take the actions you have taken in relation to the Melbourne Response?

Archbishop HART — I would always seek more than one lot of legal advice. I do not always accept one lot of legal advice. Most of the time I do.

Mr O'BRIEN — You are aware of the position the Jesuits took in 2002 in response to a case — that is reported behind one of the next tabs in your folder — whereby they agreed to change the way they had been responding to that case and effectively no longer follow the legal advice to the degree that they had. Are you aware of that situation, that the provincial, Mark Raper — —

Archbishop HART — What I would say is that any person or groups of people have a right to seek whatever appropriate legal advice they may want. That is a liberty that you and I have in society.

Mr O'BRIEN — Yes, but you are an archbishop, and you provide the instructions and the decisions upon receiving that advice. Could I just get you to read for us, so you can just see the approach taken by the Jesuits here.

Archbishop HART — What number are we on?

Mr O'BRIEN — Behind tab 6.

The CHAIR — Which page, Mr O'Brien?

Mr O'BRIEN — It is behind tab 6, and it is on the second page, which is an interview with *PM*, archived on 1 July 2003, where it says in the second paragraph:

I was moved by Lucien Leech-Larkin, and also for me it was a moment of liberation I must say, because I'd been accepting advice against my better judgment.

Do you see that?

Archbishop HART — Yes.

Mr O'BRIEN — Could you read the next two highlighted paragraphs?

Archbishop HART —

The tactic has been if one comes to us with a legal attack, we give a legal defence. That's been the tactic. And that's clear legal defence—is to attempt to fight this matter at every point, if I understand it, to attempt to block it until the point that either the complainant gives up from exhaustion or that we win the case or that we lose it.

Mr O'BRIEN — And then the next question.

Archbishop HART —

So do you as the provincial endorse that approach?

No, not now. I have for six months, while our protocol has been reviewed, but I am not at all content with that approach at all.

Mr O'BRIEN — And then read on, if you could.

Archbishop HART —

But what if your approach means the Jesuits might be taken to the cleaners in a financial sense?

This is the issue, isn't it? And this is the risk that is presented to me and this is what you could say, one of the strong arguments that were put to me, but as is evident from me talking to you now, I'm taking another approach.

Mr O'BRIEN — Yes.

Archbishop HART —

Do you think you'll get backing for that? What if the church's assets come under threat?

Well, the assets are not as important as the people that we seek to serve. What is the point of doing what we're doing if that is not the case?

Mr O'BRIEN — Is that not the sort of leadership that Mr Wakeling was saying that the Victorian community are crying out for from the Catholic Church? One not so legalistic as what we just went through?

Archbishop HART — I believe we will always look at the whole of what is put to us. I believe our whole system and the Melbourne Response, despite its weaknesses, is a genuine attempt to help victims. We have always tried to enter into any kind of negotiation in the spirit of seeing what we can possibly achieve together.

Mr O'BRIEN — Just on a final matter, if the Church does not accept vicarious liability for the sexual abuse or rape of its children perpetrated by its priests, why does it require its parishioners to recite the Nicene Creed, or Apostles Creed, at every mass?

Archbishop HART — I do not see the connection, but we do — —

Mr O'BRIEN — Can I take you to the phrase that I have been having to recite recently and pondering? It says:

We believe in one holy, Catholic and apostolic church.

Archbishop HART — That is right.

Mr O'BRIEN — We have a situation where in these legal proceedings vicarious liability can be denied in certain circumstances. You have the Ellis defence, trust properties not being made available and the church being conveniently compartmentalised into different parts to deny liability. Which way is it?

Archbishop HART — I think you are striking a long bow, really.

Mr O'BRIEN — You tell me.

Archbishop HART — I think you are striking a long bow. The church is an element in society. We are determined to walk with the society to face our responsibilities. We have the same responsibilities and rights as everyone, and when we say we are one holy, Catholic and apostolic church, that means that the church is united under the See of Peter. We are geared to holiness. The church is holy in her origin and nature — fallible sometimes in the individuals — we reach to all people, and we have a faith that comes from the Apostles.

Mr O'BRIEN — But we will not make the assets of the church more available to victims beyond the tune of \$75 000?

Archbishop HART — We have said that we will certainly do what we can.

Mr O'BRIEN — Are you going to review the cap on compensation?

Archbishop HART — I am not going to give any hasty answers now.

Mr O'BRIEN — All right.

Archbishop HART — Certainly we see the needs of victims are paramount, and certainly we want to move forward together.

Mr O'BRIEN — The final question: what is your estimate of the assets of the Catholic Church in Victoria?

Archbishop HART — I think you have got to remember — and I am not going to go into a big lesson here — that every parish, every community, what they have as buildings, what they have as parish funds are separate from what the diocese has. I could not begin to estimate.

Mr O'BRIEN — I am happy for you to take these on notice, but if you could, please provide us with the estimate of the value of the Catholic Church in Victoria, or your archdiocese if it is not something that is one holy and apostolic church. If you could, please also provide us with the estimates of legal costs spent on the process by the church and also any of those other psychiatric assessments that have been conducted on other priests in the way that we have explored the Gannon assessment — through you, Chair.

Archbishop HART — I will take advice on that.

The CHAIR — We are requesting that, if you could. Thank you, Archbishop Hart.

Archbishop HART — Sorry?

The CHAIR — That is a request that we will ask you to take on notice, thank you.

Archbishop HART — Thank you.

The CHAIR — I do not believe there are any further questions from the committee. I believe you have a statement. I know that you provided the submission to us last week, which we have all read, but if you could make a brief statement, we would be pleased to hear it.

Archbishop HART — Thank you, Chair, and thank you, members of the committee, for the opportunity to speak with you today. I know that these have been terrible times of listening to stories of tremendous human suffering, and I very much feel for you in what you have had to go through in walking with the suffering members of our community.

On behalf of the Catholic Church in Victoria I welcomed the announcement of this inquiry and I welcome the opportunity to now make a statement to the committee. It is clear from the submissions and evidence provided to this inquiry that religious and other non-government organisations, as well as the community generally, came too late to an understanding of the extent, dynamics and impact of sexual abuse. As a consequence we were not alert to the signs of abuse occurring. We failed to hear, accept and act on complaints when made by victims of abuse, and our initial responses were far too inadequate.

My life's work as a priest, bishop and archbishop has been committed to this archdiocese, this city and the state of Victoria. While I cannot fully understand either as a victim or a parent of a victim the terrible impact of abuse perpetrated by priests and others in positions of trust, as a priest and as a bishop I have met with victims and their families and I have heard of their suffering. I have also met with priests and religious who have been the perpetrators of abuse whom I have confronted and removed from public ministry.

I travel a lot around this archdiocese. I regularly visit parishes and am constantly meeting people — so many good people. In visiting our schools, hospitals, welfare services, tertiary institutions and parish communities, in talking to so many Catholics here in Melbourne, there is one common denominator in such conversations these days: hearts are heavy with a deep sense of shame and dismay about the crimes of sexual abuse committed by those who were supposed to represent Christ to them. Disappointment mixes with anger and disgust at the very thought that some who were consecrated to serve could ever molest a child. There is anger at the appalling harm that was done to children, anger at the grief and pain inflicted on parents who still live today with feelings of guilt, bewilderment and betrayal, and anger at the fact that the church failed its most vulnerable by letting this happen.

I acknowledge that our incapacity to see and to react to this situation in a timely way has given rise to the need for this inquiry. I understand that the community is looking for someone to take responsibility for the terrible acts that occurred. I take responsibility.

I am appalled by the actions of these criminals against the weakest and most defenceless in our community. I renew my apology on behalf of the church, and I apologise to the children who were the victims. No-one can know the pain that their families have suffered, and I apologise to them too, as well as apologising to the community.

I apologise unreservedly for one of the darkest periods in our church's history. We failed to recognise that abuse was occurring. We failed to recognise that we had paedophiles in our midst. We failed to really listen to people when they came forward to complain. We failed to do what is right. For these failings and the hurt and suffering that followed, I apologise.

Today Melbourne Catholics are committed to the challenge of facing the truth that innocent lives have been damaged and people are still left with their nightmares and their fears. For many victims this inquiry has been an opportunity to be heard publicly, and I truly believe that being heard and believed are critical to helping those who have been abused along the road to healing.

I have also listened to and read the harrowing stories that have been told to this inquiry. The inquiry has given the community the opportunity to come to a greater understanding of how the blight of child sexual abuse happened in so many organisations, particularly in my church, and to make recommendations to help prevent such abuse from happening again.

In our submission we have faced the truth that there was an abhorrent blight of sexual abuse of children by priests, religious and other church people. All the evidence we have matches the best international data and shows that this abuse peaked between 1960 and 1985 and has decreased dramatically since then. At the time we were too slow to recognise what was happening; we found it impossible to believe that a priest, a brother or sister could so betray their vocation. We were slow to believe victims and too often favoured a legalistic over a pastoral response. We believed offenders that they would not reoffend and could be cured, and we wrongly believed the denials of predators. And, tragically, we underestimated the long-term, often devastating, harm and effect on victims, the enduring trauma so many experience on a daily basis, which has shattered dreams, dimmed hope and ruptured their faith. These were terrible failings.

By 1990 our changes to how potential priests are screened and trained was starting to have an impact. The psychological testing, assessment and discernment of candidates for the priesthood is a serious priority. As psychological testing instruments have developed, we have incorporated them into our pre-entry assessment of all candidates seeking to enter religious life. The formation of priests and religious focuses on human, intellectual, pastoral and spiritual development, and these four pillars will continue to be shaped by best practice. The review of formation of student priests and religious and the development of protocols assist in the prevention of future violations and abuse by church personnel.

In the late 1990s we introduced the Melbourne Response and Towards Healing. We have introduced clear codes of conduct and other policies into our schools and parishes to prevent abuse and to protect children. The improved formation of priests and religious is one of the central elements in the prevention of future abuse. The Melbourne Response — which I helped to set up with Cardinal Pell when he was Archbishop of Melbourne, and in consultation with Victoria Police — is a process that helps victims in a non-legalistic manner. It does not replace the legal system, but it has helped many victims who have not wanted to take legal action.

As we have said, Madam Chair, I know you have heard from Mr O'Callaghan and Mr Gleeson, and also from the chair of the compensation panel, Mr Curtain, about their roles and how they each discharge their very important responsibilities under the Melbourne Response. And I trust that you share my conviction that they are individuals of widely recognised expertise and integrity, and that in dealing with victims of sexual abuse and those against whom allegations are made they discharge their responsibilities professionally, independently, fairly and with great empathy for victims.

In both the Melbourne Response and Towards Healing victims are strongly encouraged to go to the police, victims and their families are supported and abusers are dealt with decisively while still being afforded natural justice.

We have made five recommendations of which I know you have a copy, and therefore I will abbreviate them with your leave, if that is all right.

The CHAIR — We have read them, Archbishop Hart. We have a copy of that, so if you would just like to mention them without going into the detail, that is absolutely fine.

Archbishop HART — Yes, I will. One: the extension of mandatory reporting to ministers of religion, the same as for doctors, nurses and teachers. Two: a new way of reporting offenders to police that protects the privacy of victims who want to remain anonymous. It is our strong preference that the police investigate all criminal activity, while respecting victims' right to privacy. Three: that the Working with Children Act be amended so that the church can report to the Department of Justice all relevant adverse findings. That would then have its impact on the granting of working-with-children checks. A further thing is to clarify the limitation period for legal claims against the church to make the time frame available the same as for an offence by a parent. Finally, we recommend that the inquiry consider the introduction of statutory oversight of church processes, similar to that undertaken by the New South Wales Ombudsman.

I hope it is clear that we know the appalling abuse in the Catholic Church is a horrific episode in our history, keenly felt today. All Catholics are deeply ashamed at the terrible betrayal of trust that caused such suffering in the lives of victims, their families and their communities. You have heard of the changes we have made to our structures and processes over many years now, to ensure that we put the child foremost. The codes of conduct in *Integrity in Ministry*, *Integrity in the Service of the Church* and our own protocol, *May Our Children Flourish*, along with the child protection policies which apply in our schools and parishes, clearly articulate the expectation of the behaviour of church personnel. These are our measure.

The church has received very few complaints of abuse that occurred after 1990.

The CHAIR — Archbishop Hart, I am going to interrupt you there. I know that you have a number of other pages that you would like to read to us. I am perfectly happy to receive those —

Archbishop HART — Thank you.

The CHAIR — but if you could just make some concluding remarks.

Archbishop HART — Certainly. I will make my concluding remarks.

The CHAIR — Thank you.

Archbishop HART — We are moving on. I pledge my commitment to continue to minister so that light may be glimpsed in the darkness of pain, where the gestures of compassion may bring some healing and where facing the truth will have the power to set people free. Speaking on behalf of the Catholic bishops and the leaders of the religious congregations in Victoria, we commit ourselves and the church in Victoria to this ongoing critical task. Thank you.

The CHAIR — Thank you for those concluding remarks. Can I, on behalf of the committee, thank both you, Archbishop Hart, and Mr Moore for your time this afternoon. Your evidence has been most helpful.

Committee adjourned.