

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY  
FAITH-BASED REDRESS INQUIRY HEARING**

**Under** The Inquiries Act 2013

**In the matter of** The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions

**Royal Commission:** Judge Coral Shaw (Chair)  
Dr Andrew Erueti  
Ms Sandra Alofivae  
Ms Julia Steenson

**Counsel:** Mr Simon Mount QC, Ms Hanne Janes, Ms Katherine Anderson, Mr Winston McCarthy, Mr Tom Powell, Ms Lauren Eastlake, Ms Emma Powell, Ms Jane Glover, Mr Michael Thomas and Ms Echo Haronga for the Royal Commission  
Mrs Fiona Guy Kidd QC and Ms India Shores for the Anglican Church  
Ms Sally McKechnie, Mr Alex Winsley and Mr Harrison Cunningham for the Catholic Church  
Ms Sonja Cooper, Dr Christopher Longhurst and Ms Kate Whiting for SNAP

**Venue:** Level 2  
Abuse in Care Royal Commission of Inquiry  
414 Khyber Pass Road  
AUCKLAND

**Date:** 23 March 2021

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**TRANSCRIPT OF PROCEEDINGS**

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**Hearing opens with waiata and karakia tīmatanga by Ngāti Whātua Ōrākei**

1                   **CHAIR:** Ata mārie ki a tātou katoa. Good morning Mr Mount.

2                   **MR MOUNT:** Good morning Madam Chair. Tēnā koutou katoa. Today's first witness is Dr Tom  
3                   Doyle who is joining us by a link from the United States and we're all very hopeful that link  
4                   can be made to work.  
5

6                   **CHAIR:** Good morning. Could you tell me — I'm Coral Shaw, I'm the Chair of the Royal  
7                   Commission, could you tell me how you'd like to be addressed?

8                   A.       Yes, call me Tom.

9                   **Q.**     I will call you Tom, thank you.

10                  A.       Thank you.

11                  **Q.**     Shall we start — if you wouldn't mind taking the affirmation please, Tom.

**THOMAS PATRICK MICHAEL DOYLE (Affirmed)**

12                  **CHAIR:** That small exchange that we've just had I realise that there is very slight delay. So, I  
13                  think that's a lesson for us all just to wait for a moment after a question is asked or a  
14                  question is given before we move on. Have you discovered that already Mr Mount?  
15

16                  **MR MOUNT:** Yes.

17                  **CHAIR:** There's a lesson for us all, hopefully we'll remember. Thank you. So, I'll leave you now  
18                  in the capable hands of Mr Mount, Tom, thank you.

19                  **QUESTIONING BY MR MOUNT:** Good afternoon Dr Doyle, Tom can you see me and hear  
20                  me?

21                  A.       I can see you and he can hear you perfectly, unlike last night.

22                  **Q.**     Some formalities first. Is your full name Thomas Patrick Doyle?

23                  A.       That's right, actually Michael is thrown in there too, I've got two middle names.

24                  **Q.**     We, or at least some of us have with us a statement that you have prepared for the Royal  
25                  Commission which is some 355 paragraphs long. Do you have the same statement with  
26                  you?

27                  A.       I can bring it up if you'll hold on just a second, I have two screens here, so I'm going to put  
28                  it on the other screen [inaudible]. I now have it, I have it in front of me.

29                  **Q.**     Can you confirm for us that the statement is true and correct to the best of your knowledge  
30                  and belief?

31                  A.       Yes, I can.

32                  **Q.**     I don't think you can see very much of our room at the moment, but we have a stenographer  
33                  typing everything that is said, and we have sign language interpreters also interpreting  
34                  everything said, so we need to keep an eye on speed.

- 1 A. Very well. I'll follow your lead.
- 2 Q. In terms of housekeeping, our plan will be to take a break after about an hour and a half and  
3 then go for another hour and a half or two hours after that before what we will call a lunch  
4 break but will be a bit later in the day for you.
- 5 A. No problem.
- 6 Q. I think it's about 4 o'clock in the afternoon for you on the East Coast of the United States?
- 7 A. It is, 4.09 actually.
- 8 Q. As I say, you probably can't see our room, but we have a room of people in Auckland,  
9 New Zealand gathered to hear your evidence and we are also live streamed to an audience  
10 of many people, including very importantly a large number of survivors who have been  
11 watching our evidence, so thank you for joining us.
- 12 A. Thank you.
- 13 Q. A couple more formalities. Can you confirm that you have received and read a copy of the  
14 Code of Conduct For Expert Witnesses which applies in New Zealand?
- 15 A. Yes, I can, I have received it and I have read it and I concur with all of it.
- 16 Q. Thank you. We will begin with a very brief summary of your expertise for those who don't  
17 know you. And looking at paragraph 19 of your statement we see that you were ordained a  
18 Catholic priest in 1970; is that correct?
- 19 A. That's correct.
- 20 Q. I take it you are no longer a Catholic priest?
- 21 A. Well, I'm not an active Catholic priest, I still — once you are you are forever, but I am not  
22 active right now.
- 23 Q. You have a number of degrees and postgraduate qualifications, can you tell us about those  
24 briefly?
- 25 A. Briefly, yeah, I can. I have masters degrees in philosophy which means I specialised in  
26 social philosophy, theology, political science, [inaudible] studies, canon law, church  
27 administration and I have a doctorate in canon law and I am also a licensed and certified  
28 addictions therapist and a licensed commercial pilot. Anything else? I'm a scuba diver too,  
29 which is why I hope you had invited me over there.
- 30 Q. We are very sorry you couldn't be here in person, no doubt.
- 31 A. I know, I finally got my first disease shot the other day, so I'm half ready.
- 32 Q. Very good. Maybe looking at your paragraph 28, we can see you've been involved in the  
33 topic of clergy abuse for coming up to 40 years?
- 34 A. That's correct.

1 **Q.** In a moment we'll tell the story in more detail, but can you give us a thumbnail sketch of  
2 the different ways in which you have encountered and worked in the area of clergy abuse?

3 **A.** Yes, I can, and I'll do it chronologically. As you know I was at one time the canon lawyer  
4 for the Vatican Embassy in the United States, that's 1984, actually 82 when I first  
5 encountered this particular issue. So, my first, very first tasks related to this were  
6 administrative, acting on behalf of my boss the Vatican ambassador completing  
7 correspondence, keeping a file. It went from there to actually being, I guess what you call,  
8 middleman between us and the diocese where the first big case actually took place in  
9 Louisiana. Following that, thumbnail, I became involved without really knowing it, but I  
10 was gradually getting more and more involved with challenging the way the institutional  
11 Church had been dealing with the issue of sexual abuse of minors by the clerics. I didn't  
12 even know I was doing that at the time because I was not aware of cover up of any of this.  
13 So that's what I did; over the years, and I've been steadily involved with this issue since  
14 then, as an expert witness in court.

15 **CHAIR:** Sorry, Tom, sorry to interrupt you, you're just going a little bit fast for our people. So, if  
16 you wouldn't mind just taking the odd breath every now and again, just slows you down.

17 **A.** Sure.

18 **Q.** Thank you, sorry to interrupt.

19 **A.** If I go out of first gear in second just let me know.

20 **Q.** We will, thank you.

21 **A.** All right, I think maybe the easiest way would be for me to just outline the different ways  
22 that I've been involved.

23 **QUESTIONING BY MR MOUNT CONTINUED:** Yes.

24 **A.** I have been, first and most important, I've been directly involved with the victims and  
25 survivors as a support person, as a, I guess, a spiritual guide, as a pastoral person. I don't  
26 know if there's any proper title, but I've been with them to help them to listen as well as to  
27 their families. I have worked as an expert witness and a consultant in civil cases and  
28 criminal cases in the United States, Canada, Ireland, the United Kingdom, Australia and  
29 Israel, and also Belgium and Quebec, which is not actually a separate country, but it sort of  
30 is. I may have left a couple out, so I've done that. I've done a massive amount of academic  
31 research into the fundamentals of the systemic dimensions of this issue.

32 I was trained, as you know, prior, formally in canon law, but my area of specialty  
33 and interest was medieval law, so I've gone into that area and found it extremely  
34 enlightening. I've done actually some defence work with perpetrators, accused priests who

1 have felt left out in the cold, so I've done that, on a consultant basis. I do not actually  
2 represent them in court, but I've been as a consultant or a friend, and that's based on my  
3 fundamental belief that due process, everyone is entitled to it, the victims, the perpetrators.

4 I have been involved as a, whatever, a guest, I guess, in approximately 30  
5 documentaries from several different countries in the world, talked to the media, I've  
6 written a number of scholarly articles, and by scholarly I guess I mean with a lot of  
7 footnotes. I've written a couple of books on this issue. Again, the most important thing I've  
8 done have been to be with survivors themselves. Does that help? [inaudible] It's a  
9 thumbnail.

10 **Q.** I think you gave evidence in the Australian Royal Commission into child sexual abuse.

11 **A.** That's correct.

12 **Q.** Which brought you down to this part of the world. Just thinking about New Zealand, can  
13 you confirm that you've received and had a chance to read the witness statements filed by  
14 the, or upon behalf of the Catholic Church for our Royal Commission hearing at the  
15 moment?

16 **A.** I can confirm that I've received them all, but I can confirm that I have read all except for,  
17 his last name begins with an H, I don't have it in front of me.

18 **Q.** Horide I think.

19 **A.** Horide yes, I was going to say Horide but that would be an embarrassment. I just got the  
20 link to these documents this morning, so I have managed to get through everything but his.

21 **Q.** Have you also read the New Zealand Church's document A Path to Healing?

22 **A.** Yes, I have.

23 **Q.** I think you visited New Zealand in the 1980s and met with a Cardinal?

24 **A.** That's correct, I visited New Zealand, I think it was 1988 when I visited New Zealand or  
25 87, I'm not exactly sure, but yes, I was brought over to that part of the world to speak at the  
26 annual convention of the Canon Law Society of New Zealand and Australia because they  
27 thought I had expertise in the new Code of Canon Law which was published in 83, but I  
28 was also asked to address this particular issue of sexual abuse of children, which I did. I  
29 was in New Zealand — the convention took place in Adelaide and then I flew to  
30 New Zealand and remained there, I believe I was in New Zealand for a week. I had a  
31 wonderful time. It got to the point where I was ready to call home and say just send my  
32 stuff over, I'm staying, because of the beautiful topography and the wonderful people. But  
33 I had to come home. So, I did visit and I met, I believe at the request of Cardinal —

34 **Q.** Williams?

- 1 A. Cardinal Williams, I met with him and I also recall meeting with a couple of priests who  
2 were on his staff in the Archdiocese of Wellington. I believe was one was a Father Dolan,  
3 Monsignor Dolan and I think I remember having dinner with him, I believe he's the one,  
4 but I did meet with Cardinal Williams for a significant amount of time. And he was very  
5 gracious, and he asked me a lot of questions which I tried to answer intelligently with as  
6 much information as I had available to me at that time.
- 7 Q. If we talk about the scope of your evidence for a moment, is it correct that you can provide  
8 an international context for our Commissioners' understanding of the response to abuse in  
9 the New Zealand Catholic Church, so international context?
- 10 A. I believe so. I have had experience, I guess just because of my reputation, or my notoriety,  
11 take your pick, I've had experience with this issue in a number of European countries,  
12 South American countries, Sub-Saharan African countries and even the Far East, Australia  
13 and some experience in New Zealand. Prior to the Commission I've had experience with  
14 [inaudible] in New Zealand. In fact, I wrote the report in 2004 which I made available to  
15 the Commission.
- 16 Q. Although you have read it, I take it you are not here to provide a direct critique of the  
17 New Zealand Path to Healing process?
- 18 A. No, I don't believe so. I've read it and that — I wasn't quite sure what my mandate was to  
19 start off with anyway, so I have tried to concentrate on the area that I think is of most  
20 importance, which is the systemic dimension of sexual abuse of anybody by Catholic  
21 clergy. One part is the abuse itself, the concern for the abusers who were generally either  
22 clerics, non-ordained brothers or sisters, or lay employees or volunteers. But that I  
23 believe — I would [inaudible] characterise that as one-third of the issue, two-thirds are the  
24 systemic dimension and the context in which this has been handled by the institutional  
25 Church and also the causality that has fed into making this whole phenomenon possible.
- 26 Q. Finally, in terms of New Zealand, you don't need to go into the details, but have you had  
27 some contact with survivors of abuse from New Zealand and their advocates over the  
28 years?
- 29 A. Yes, I have. I believe my first contact would go back to the beginning of the millennium,  
30 2001, 2002 and then since then I've had regular contact, even prior to my involvement with  
31 the Commission with their advocates on a regular basis, sharing information, receiving  
32 information and so on.
- 33 Q. We'll move on now to the story of how you began your work with clergy abuse. So, we'll  
34 turn the clock back to 1982, I think, when you were working in the Vatican Embassy in

1 Washington DC?

2 A. That's correct. You want me to — you ask the questions.

3 Q. Tell us how you became first involved in this topic?

4 A. I was a staff member, I was the staff canon lawyer and my main task at the Embassy was  
5 managing the process whereby candidates for the office of bishop were being vetted and, as  
6 you know, we have a huge country, we have almost 200 dioceses and archdioceses so that  
7 part consumed a lot of time.

8 But I also had to be ready and available to do whatever tasks the ambassador, the  
9 nuncio gave me, that was the story with all of us. And he tasked me one day, we had  
10 received a couple of, oh I'll cut to the chase. In 1982 I had to provide information and act  
11 as a go-between on accusations of sexual abuse of minors made by — perpetrated by two  
12 bishops. One was retired, and one was an auxiliary bishop. This was on the job training  
13 because I knew what this issue was before that time, I had encountered it first-hand in my  
14 religious community before I was ordained, but on this particular issue on one instance  
15 I found a priest in the Archdiocese of Washington who was expected by all to do the  
16 [inaudible] investigation in one case and in the other the bishop unfortunately was reported  
17 to us by the FBI, twice. And they told us after the second time that there won't be a third  
18 time, we're giving you a courtesy on the first two. There was a third time but before  
19 anybody could do anything, the All Mighty intervened and the priest died, the bishop died.

20 My next contact was 1984 which is the one that really got me deeply involved in  
21 this and that was the notorious case of the priest in the Diocese of Lafayette, Louisiana  
22 which is in one of our southern states, a priest had been reported several times for being  
23 very sexually active and he'd been transferred around several times until I believe it was a  
24 father and an uncle of a couple of victims went to the rectory where he lived, one of them  
25 had a shotgun in hand and they were greeted by the pastor and they said "We want to talk to  
26 Gauthé". The pastor was smart enough to tell them that he's not there because had he been  
27 there they would have shot him.

28 So, they reported this to the bishop and that got their attention. That's when they  
29 made a settlement with six of the families, notified the Vatican Embassy and that's when  
30 I became involved as again the scribe, so to speak, to keep the file and I would be more  
31 involved with helping them with information in Louisiana, because I was connected first  
32 with a man named Michael Peterson who was a priest and a psychiatrist. I, through our  
33 friendship, asked him to help dealing with this Father Gauthé.

34 So that situation exploded, it was poorly handled, but it still remains probably the

1 classic example of how not to do everything. And then after that the criminal charges were  
2 filed and the media got a hold of it, so it became not just nationwide, but it became known  
3 around the world. There was a photograph of the accused priest in his prison cell, jail cell  
4 that was printed in Newsweek magazine which has an international scope. That's how I  
5 became involved.

6 **Q.** What was the attitude of church leaders towards the victims or survivors in that case that  
7 you first encountered?

8 **A.** That particular case that I first encountered, the attitude toward the victims who were all  
9 prepubescent boys, the ones we knew about, because this priest was a true paedophile.  
10 That word is usually used to describe anybody who sexually abuses minors, but in fact a  
11 true paedophile only is sexually interested in prepubescent boys or girls.

12 The Church, as I recall, very clearly, they seemed to be disinterested in the  
13 victims. They were asked and they were sort of manipulated into engaging a psychologist  
14 who met with several of the victims to assess their needs and the damage that had been  
15 done, which was massive, but their primary interest at the time was preventing a trial on the  
16 civil side and civil cases because they did not want all of the information coming out into  
17 the public, they couldn't very well prevent a trial on the criminal cases, but they were  
18 primarily concerned about the welfare of the diocese, the institutional dimension and the  
19 reputation of the bishop and the others. I did meet a couple of the youthful, prepubescent  
20 young boys and it's haunted me to this day to see the faces of these young boys when they  
21 were almost like ghosts, you know, there was an emptiness in them and I'll never forget  
22 that. And the father of one told me "I used to hug my son and kiss him goodnight before  
23 they went to sleep", he said "now I can't go near him". And to hear that and listen to the  
24 parents was and remains one of the most heart-breaking experiences of my life.

25 **Q.** In your statement you talk about preparing a manual I think about 100 pages long sometime  
26 after this. Tell us about that manual.

27 **A.** Certainly. That manual was actually conceived by the three of us, there was myself,  
28 Dr Peterson who became very much involved in this issue because he ran a clinic where  
29 bishops would send priests who had serious problems with drug abuse, alcohol abuse or  
30 psychosexual problems, so he knew a lot about this issue, but he also knew where the  
31 bodies were buried.

32 The third individual ironically was an attorney who the diocese had hired to  
33 represent the accused priest on the criminal charges, and he came to Washington and  
34 insisted on meeting with me because he said to me "You know the papal ambassador and

1 you need to get this information to him", namely that there were several priests known who  
2 were still roaming the dioceses who were known to be sexual abusers. He was very upset  
3 about that for two reasons, because it was making it very difficult for him to create the deal  
4 he wanted to create for his client, which was not freedom but incarceration at a mental  
5 health facility to kind of find out what made him tick.

6 Secondly, he said "I'm a father of two teenage boys and pre-teen girl and I worry  
7 about them." We were consulting on this, constantly talking about it getting information  
8 and I was feeding this to my boss, the papal ambassador, and it was suggested to me by a  
9 bishop, because I was dealing with bishops all the time, "Why don't you put together some  
10 kind of a position paper with instructions on how we can deal with this issue if it hits us,  
11 because many of us have never had to deal with this." [Inaudible]. And so, we put our  
12 heads together and we put together what we called the "manual", it has a three line title, but  
13 we called it manual, and it has several sections and it was in question and answer form.  
14 There was a section on criminal law, civil law, canon law, pastoral practice, medical  
15 information, namely the effect on victims and the information on the psychosexual  
16 disorders that fueled the perpetrator.

17 Dr Peterson was an expert in this particular area, so he selected several articles  
18 that he attached to the manual. Our goal was to simply offer it to the United States  
19 Conference of Catholic Bishops in hopes that they would circulate it and use it as perhaps  
20 an aid to help them in dealing with the issue. Keep in mind, this was 1984/85. I had no  
21 clue, no clue to the extent that this issue, nor did anyone else at that time. We also put  
22 together a three-part action programme that included an office at the bishops conference  
23 that would co-ordinate investigations, if a bishop reported a case we had put together a  
24 process whereby the bishop could call this office and then we would engage volunteer  
25 expert psychologists, lawyers, media people to go to the diocese and help the bishop deal  
26 with the issue. We also recommended that the bishops put together a research commission  
27 of people, that would be made up of not of bishops but of actual experts in various areas so  
28 that any information what was needed would be state-of-the-art of this issue.

29 And the third part of that was a section on actually dealing with the issue firsthand.  
30 And we capitalised on the issue of the first and most important thing is the contact with the  
31 victims, that has to be as immediate as is possible after a report. So, we put this together  
32 with the encouragement and the support of the Papal Nuncio and of three, at least three or  
33 four highly placed churchmen in the United States and I'll tell you their names and you'll be  
34 surprised. The one I worked most closely with was Cardinal Law. The second one

1 I worked very closely with was Cardinal [inaudible], both of them are deceased.  
2 [Inaudible] I had known for years as a close friend. The fourth was Cardinal Krol, now  
3 deceased, former Archbishop of Philadelphia. They encouraged us to do this, they read the  
4 draft, gave it to the Papal Nuncio and he was going to give it to the Secretary General to the  
5 bishops with the suggestion that they circulate it and give serious consideration to the  
6 action plans. He was told by the Secretary General they didn't need it, they knew  
7 everything that was in it and so we gave it back. So, it never got off the ground, in that  
8 regard.

9 We did have a meeting with Cardinal Law, we were supposed to have a meeting  
10 with Cardinal Law, this was May of 1985, to discuss the action plan and he was going to  
11 continue to support it and [inaudible] this committee we wanted to have founded. He  
12 couldn't come to the meeting, so he sent the Secretary who at the time was Auxiliary  
13 Bishop Levada who became the Cardinal and the director of the Congregation for the  
14 Doctrine of the Faith after Cardinal Ratzinger became Pope. He met with us. He and  
15 Cardinal Law had approved of our plan, approved of the manual and they had a budget in  
16 there of \$3 million that would fund the thing and that was peanuts compared to what, you  
17 know, it actually would have cost.

18 So, we were pretty happy with that outcome thinking we're going to —  
19 something's going to happen. At that time the only way we knew how to deal with this  
20 from our perspective was in an administrative way because we were not in daily contact  
21 with victims. Two weeks later I was at my sister's home in Montreal and I received a  
22 phone call from Bishop Levada telling me the whole plan has been shelved, it's been  
23 cancelled. He didn't tell me why, but he said that another commission, a regular  
24 Commission of the Bishops Conference is going to take this up and it wouldn't look good if  
25 we came in there with our plan and our programme, it wouldn't look good if we were trying  
26 to do something counter to this other [inaudible]. I was stunned, I did find out subsequently  
27 there was no other commission planned, nothing, there was nothing. They simply did not  
28 want to use any of this information and there was nothing in it that was threatening, I'll tell  
29 you that.

30 **Q.** Although the manual was shelved and the plan, as you say; do you know how widely  
31 distributed the document was, did it reach people outside of the US?

32 **A.** It did. First off, the bishops were going to have a meeting in June of 1985 [inaudible] by  
33 bishops I mean we have in the United States approximately 400 bishops, but of those 400 at  
34 least well over 200 or 300 are active in the sense that they're active auxiliaries or ordinates.

1 They meet twice a year. Even though they said they weren't interested, we had one bishop  
2 that we thought was sympathetic and we asked him to take about 15 copies with him to the  
3 media and circulate them to people you think would be open to listening to this, and then  
4 maybe we could lobby a little bit. But we never did that, he took the copies, but he never  
5 did anything.

6 They had one full day of discussion on sexual abuse of minors in executive  
7 session, but the reports I received back from Cardinal Krol and my own boss, the Apostolic  
8 Nuncio, the day was — two-thirds of it was a waste, they said the only part that was  
9 productive was the report from the psychologist [inaudible].

10 However, we decided on our own to mail a copy of the report to every bishop in  
11 the United States. I believe we also sent it to several bishops in Canada and to some in  
12 Mexico. By then it was out there, the media had gotten copies of it, so it was used as a  
13 foundation for a lot of questioning. At one press conference held by the bishops the media  
14 were there, and they were waiting, "What about this? You've got this plan, why aren't you  
15 using it?" And the man running the meeting was the General Counsel for the Bishops said  
16 "We don't need it because we know everything that's in it and we already have an action  
17 plan and protocols in place." Then the reporter says naturally "Can you give us a copy?"  
18 "Well, they're just not written down." So, you take that for what it's worth.

19 And then he made the outlandish accusation that Father Peterson, Mr Moutant and  
20 I had constructed this whole programme to make money off of the sexual abuse of children  
21 [inaudible] charge the bishops who work for them, which was totally outlandish, and it was  
22 stunning. And my own boss, the Nuncio was as stunned about that as I was. So that told  
23 me from the beginning something was going on underneath [inaudible], that it was another  
24 agenda and that's called a cover-up and that's exactly what was happening. You know,  
25 I didn't know the extent of the contribution/retribution in Europe, but I know it found its  
26 way to Ireland, it found its way to England [inaudible] continent of European countries  
27 [inaudible].

28 **Q.** I think by the following year, 1986, you left from the embassy in Washington DC. Tell us  
29 about the circumstances of your departure?

30 **A.** Well, it's pretty simple. I was making too much noise I think pushing this issue too much  
31 and one day I was simply told that "We're going to need your office and your suite of  
32 rooms for a new man coming in", which in effect said, "You're fired, you're going out the  
33 back door", and that's what happened. And I know that — I believe I was becoming a thorn  
34 in their side because I wouldn't let — I was told by other staff members to let it go because

1 if you don't it's going to ruin your career, and I remember saying to myself what career? So  
2 that was how I ended up going through the next phase of my life.

3 **Q.** The next phase of my questions is about the Church and understanding its governance, the  
4 structure and so on. Your paragraph 128, for those who have the statement, answers —

5 **A.** 12 what?

6 **Q.** 128 on page 45, answers the question what is the Church. So, can you tell us what is the  
7 Catholic Church?

8 **A.** Hold on I'm almost there. It's on my screen so I have to scroll up. As I said in my report,  
9 there are two separate definitions of the Church. One is the one that's the foundation for  
10 canon law which is the institutional Church, it's a governmental structure that is  
11 hierarchical in nature as it is described, but in fact it's monarchical in practice. I don't say  
12 that word in a derogatory manner, it describes a political system, monarchy is an accepted  
13 governmental system and the Church was in fact an absolute monarchy and still is.

14 Then there is the definition that was given to us, given back to the Church by  
15 Luman Gentium in the second Vatican council, referring to it as the people of God where  
16 the basis is not ordination but baptism. This is the definition that I believe is much more  
17 active, because it includes everyone who is a believer. Canon law gives certain  
18 stipulations, you have to do this, you have to do that, you have to do the other thing, to be a  
19 member of the institutional Church, things you have to believe, things you have to do.  
20 Well, not everybody does that, but they have Christ in their heart and they want to be part  
21 of a praying, loving community.

22 So that would be my understanding of the meaning of the church is primarily the  
23 body of Christ. It never took on the structure of a governmental system anyway until  
24 Constantine gave it official recognition in the 4th century, that's when it came out of the  
25 shadows and was ordinated.

26 Now I do mention in my report that it's the largest religious denomination in the  
27 world, it is obviously the oldest Christian denomination in the world, and it's also the  
28 largest corporation in the world. And it is the only religious denomination that has standing  
29 in the community of nations, it has the representative at the United Nations and it has a  
30 diplomatic corps and the Government of the Holy See, which is the word for that dimension  
31 of the Church, exchanges ambassadors with approximately 140 — 133 different countries  
32 in the world and there are only, I think, 196 countries in the world, there are 159, I'm not  
33 sure, but it has a diplomatic experience.

34 **Q.** You talk about the four strata or four levels of hierarchy in the Church. What are they?

1 A. The four strata of the Church looking at it from an institutional dimension, keep in mind  
2 that it is hierarchical in governmental structure; consequently, it has built-in aristocracy.  
3 The largest strata in the Church is — I'm looking for some notes here [inaudible]. Anyway,  
4 the largest strata is the lay people. There are approximately 1.15 billion members of the  
5 Roman Catholic Church. The largest strata is the lay people.

6 Then you move up to the next fundamental level, there are two basic levels, for lay  
7 people, the next group is the clergy. This is defined in canon law as the clerical culture, the  
8 clerical strata of divine foundations, divine order, it was founded by God. It doesn't say  
9 that about the laity, but it does say that about the clergy, [inaudible]. Then you have three  
10 strata in the clerical world. You have the deacons and priests, and there are maybe I think  
11 53,000 deacons in the world and about 414,000 priests in the world. So that's the second  
12 strata.

13 The next strata upwards would be the bishops and I would include they're all  
14 bishops, however in that strata the more important and influential ones would be the ones  
15 who serve as what we call ordinaries or heads of dioceses. Cardinal Dew is an ordinate,  
16 he's the head of the Diocese of Wellington, the others are auxiliary bishops, but they have  
17 an administrative job somewhere. The next strata would be the cardinals and I think as of  
18 today there are about 130 some cardinals, 133 maybe.

19 The next strata would be the cardinals which are personally appointed named by  
20 the Pope. That's the only body in the church that actually does anything that comes close to  
21 a democratic act and they only do it once and that's when they elect the Pope. Then the top  
22 level, of course, is the papacy and he's not part of the strata. For the first time in a long  
23 time we've got two popes, but only one is the boss. So those are the four strata.

24 **Q.** When you talk about clergy abuse as a title, what is the word "clergy" referring to there?

25 A. The word clergy there refers to two things; one, those whose men who are set apart and are  
26 part of this section of the church that's called the clerical section, the clergy, the clerical  
27 culture. And in order to be ordained to one of holy order, one of the Holy Orders, you must  
28 be a cleric. Those are deacon, priest and bishop. Cardinals are not ordained, they're  
29 appointed by the Pope. You don't have to be ordained to be a cardinal, you can be a  
30 layman. But nowadays after Pope John XXIII, if you are not the bishop when you're  
31 appointed a cardinal, you have a choice of either being consecrated a bishop or getting a  
32 waiver from the Pope to not be consecrated a bishop. That's the clergy. The clergy  
33 constitute 0.000384% of the institution of the Catholic Church and that's where all the  
34 power is [inaudible]. And in effect the power actually is with approximately 3,000 bishops

1 who are in positions of power, including the Pope. And of these 3,000 bishops, 100% of  
2 them are celibate and, as far as we know, none of them are parents or have raised children  
3 or have been involved in a stable, intimate relationship. That has a profound bearing on the  
4 Church's response to the sexual abuse of children.

5 **Q.** Tell us more about the power and responsibility of bishops over their diocese?

6 **A.** Okay. There are two seats of power in the Church, the papacy, which is absolute and  
7 according to canon law the Pope answers to no human power. The only one that can fire  
8 the Pope is God. The other seat of power is the power of the ordinary of diocese, of the  
9 diocesan bishop. In his diocese the bishop is considered to be the representative of Christ,  
10 he is not a vicar of the Pope. And so he has, according to canon law, all the power needed  
11 to govern this diocese and, according to the church's structure, the three basic governmental  
12 offices of executive, judge and legislature are not separated as they are in a number of  
13 democratic countries but they're joined in the office of the papacy and in the office of the  
14 diocesan bishop.

15           Consequently, those powers rest with the bishop and the Pope, but we're talking  
16 about the bishop. [Inaudible] if all power rests with the bishop there are no checks and  
17 balances in the institutional [inaudible] as there are in countries where they have an  
18 absolute separation of powers. In the United States, my own country, for example, we have  
19 a radical separation of powers where one is not in charge of everything. As you know, we  
20 have a way of firing a president if he doesn't do his job. The Supreme Court Justices are  
21 appointed by the President, they stay in their place for life, but their job is to review  
22 legislation to make sure it's coherent with our constitution.

23           In the diocese the bishop is the chief judge, chief administrator and executive, and  
24 he's also the sole legislature. He alone can make laws or rules to for the diocese, he  
25 appoints and delegates the handling of judicial issues called a judicial vicar. As far as  
26 executive work is concerned, generally bishops don't micro-manage totally and they have  
27 other people in the diocese who they delegate to bring out the various tasks of  
28 administering the diocese. So the bishop has — he is the authority, he could run everything  
29 if he wanted to, everything, he could insist on right down to the minutest detail of life in the  
30 parish, but I don't know anybody who would do that, but he could.

31           So, the bishop has, I would say, with the exception of any restraints given him by  
32 canon law or by the Pope, he has almost total power, executive, legislative and judicial in  
33 his diocese as well as pastoral power. He's considered to be the chief pastor of the diocese  
34 and the chief teacher. So as you can see, the bishop has vast power in the diocese, which

1 has good points but it has a lot of bad points as well.

2 **Q.** Two-part question. Tell us about the religious institutes, including religious orders and  
3 what authority does a bishop have over religious orders within his diocese?

4 **A.** Okay. Religious institutes are groupings of men and/or women who come together to lead  
5 usually a community life, they want to become more closely involved in the life of the  
6 institutional Church, they come together and they live a common life — most of them do,  
7 not all —and they live by a specific rule. Most of them take some sort of — they are  
8 engaged and connected to the Church by some sort of a bond, either a promise, a vow or  
9 some form of commitment. The Church has had religious orders as they're commonly  
10 known. They go back to, I believe, the 5th century or the 6th century when St Benedict  
11 founded the first monasteries in Italy. That was the beginning. Now they're formally called  
12 now institutes of consecrated life. Consecrated life means you dedicate your life to the  
13 work of God by working for the Church. There are more types of religious orders than  
14 I know of, I mean I can't give you the numbers. There used to be a saying that only God  
15 thought he knew how many orders of religious women there were, but he wasn't even sure  
16 because there are a lot of orders of religious women. I don't have say that pejoratively, it's  
17 a wonderful tribute, but the fact is there are a lot.

18 So these groups, for example, would be the Marists Brothers and Fathers.  
19 Religious institutes, religious orders are made up of ordained and not ordained. Some are  
20 all only ordained, only priests. Some are both; they have priests and what we call brothers  
21 who are not ordained but full members. They all take vows of some sort, either simple  
22 vows or solemn vows for life, they do a variety of tasks in the church, teaching, [inaudible],  
23 missionary work, a variety of jobs, that's why most of them, many of them acknowledge --  
24 one order, for example, the Trinitarians were founded to rescue captives and slaves, to  
25 liberate them. But that's no longer a major deal, so I think they primarily do teaching, at  
26 least in my country.

27 So religious communities are very much a part of the Church, a major part.  
28 They're not in the hierarchy unless the members are priests. If the members are priests,  
29 then they're clergy and they're automatically in the hierarchical structure. Religious women  
30 make up a significant number of institutes of consecrated life.

31 The religious communities generally, unless they're what they call contemplative,  
32 those are monks, they just go in a monastery, or they're nuns who just go in a monastery  
33 and all they do is pray and they kind of keep themselves, take care of themselves, they don't  
34 do outward work, they don't do pastoral work, parish work, they stay in — they're what I

1 commonly call they're maximum security religious, they're in their monastery, period.  
2 Some examples are Trappist monks which were an offshoot of the Benedictines, the  
3 Camaldolese which are hermits, they have hermitages around the world and each monk  
4 lives in a little hub and they spend most of their time in there. So the Trappists,  
5 Camaldolese, the Carthusians are another holy contemplative order, then we have the  
6 others, Marists, Dominicans, Jesuits, Franciscans and I could go down the line.

7 **Q.** What authority or responsibility does a bishop have for the various orders that may be  
8 working within his diocese and perhaps also if we include schools within this question too?

9 **A.** Sure. The bishop is the bishop of the diocese, he's in charge of everything that happens in  
10 that diocese that is what's called — that involves what we call the care of souls, that's a  
11 technical term. That's the broadest understanding of pastoral care. The bishop has direct  
12 authority over every endeavour that involves the care of souls, whether it's formal or  
13 informal, whether it's large or small, this includes schools, parishes, hospitals, chaplaincies,  
14 it doesn't matter what it is. If a couple of priests meet with a small group of people  
15 informally in the park every Saturday to discuss theology, the bishop has the authority over  
16 that. He has that because he is the chief bishop and [inaudible] of the diocese.

17 Now this distinction is very well explained by Cardinal Dew in his presentation  
18 which I read, and it's also explained by Father Duckworth in his. So I'm not quite sure what  
19 the misunderstanding is, but the bishop of the diocese have direct authority over what  
20 happens in the schools, he has the authority to remove a religious community because a  
21 religious community cannot be started, you can't just move into a diocese and set up a  
22 community of men or women without the bishop's permission. You can't start a school  
23 without the bishop's permission, or a parish.

24 Parishes are generally entrusted to a religious order by the bishop, in other words  
25 he needs priests, so he says to the order "I'm going to entrust a parish to you" and the order  
26 then provides the bishop with a list of suggested names for pastor and assistant pastor. The  
27 bishop, if he approves them, makes the actual appointment. The bishop also has the  
28 authority to visit schools, whether they're run by religious orders or not, orphanages and  
29 similar institutions, what's called visitation which is an ecclesiastical term for inspection.  
30 So he has a lot of authority over what religious do.

31 He doesn't have control over their internal life, that's up to their own superiors to  
32 make sure that their subjects keep their vows, follow the constitutions, lead the life of a  
33 religious. That's up to their own superiors. The bishop doesn't get involved in what time  
34 they get up for prayers, when they wear their habits, how much money they can have for

1           their vacations, he doesn't get involved in that. But he is concerned about anything they do  
2           that's connected with his people, that's everybody in his diocese, whether they're permanent  
3           residents, just passing through, visiting for a day, they're under the bishop's authority and  
4           his responsibility. Is that clear?

5   **Q.**    Yes. Can you explain for us the nature of the priesthood next and in particular the degree  
6           of respect that a priest would expect to receive within the Church?

7   **A.**    Certainly. I won't go through the whole history of the priesthood because that would take  
8           us a long time. A priest is one of Holy Orders, he's one of — Holy Orders is a sacrament  
9           that has three degrees. To be a priest you must be ordained by a bishop. A priest is given  
10          certain sacramental powers and he has the power to celebrate the Eucharist, which is the  
11          centre, the core of life of the Catholic Church. And when he celebrates the Eucharist in the  
12          name of Christ, he changes the [inaudible]. He also has authority over the other  
13          sacraments. A priest alone can hear confessions, a priest alone can give the sacrament of  
14          the sick it used to be called [inaudible]. Only a bishop or a priest can administer the  
15          sacrament of confirmation. A priest isn't required for the sacrament of matrimony as one of  
16          the ministers, but he is required by church law as the official witness. So he's going to  
17          [inaudible]. A priest cannot ordain other priests, only a bishop can do that.

18                 So a priest has immense powers and he has been presented through the centuries  
19                 as a representative of God, as taking the place of God on earth, as having vast power  
20                 because he can forgive sins in the name of God, he can bring the presence of Christ  
21                 physically under [inaudible] of bread and wine and on to the altar. He is taught by the  
22                 Church to have immense power, that he represents God, and that of course, you grab that  
23                 and it's like a football, you run with it and it becomes conflated in the Catholic Church  
24                 where the priest — in some areas they believe he is a piece of God, a part of God. And  
25                 there was some teaching in theology that arose out of the 16th — 17th and 16th centuries,  
26                 17th mostly, in the French schools of spirituality, that claimed that when a man became a  
27                 priest he was what they call ontologically changed. That meant his very being, this is  
28                 Thomistic philosophy and Aristotelean philosophy. If it sounds like plain English to you  
29                 I apologise but I'll try to explain it.

30                 Onto is the Greek word for being, ens, E-N-S, is the Latin word for being.  
31                 Ontological means it's something that's connected with your very being, whatever makes  
32                 you tick, what's in there, inside of you. And Aristotle tried to explain it using his own  
33                 philosophical categories and St Thomas jumped on this and tried to continue using  
34                 Aristotle's categories and his own concepts of theology.

1           So this teaching arose in this era that a priest was actually — he became a part of  
2 Christ at ordination. You can imagine how this goes over when you start telling people in a  
3 parish that priests are part of Christ, they're part of God. They have massive powers. The  
4 aura that surrounds a priest, even today in many areas is awesome. He's exists on a higher  
5 plane. Most Catholic priests are celibate which is looked upon by many as kind of a  
6 mysterious power, that you're celibate, you don't have to have sex, you don't have to have  
7 intimacy, that takes tremendous power to live that way, to be that. Priests, there's an aura  
8 of mystery that surrounds them, and so they are looked upon in many ways as super human,  
9 the teaching of the Church was that a celibate life is superior to the married state, if you  
10 want to talk about people who aren't married having sex, they don't count, but the married,  
11 because they have sex, so there's [inaudible].

12           That particular teaching does not necessarily go over well with a lot of people  
13 including priests. When we were taught that, we were exposed to that [inaudible] I  
14 remember I got very upset at the way it was presented, because we all had parents and one  
15 guy said "Wait a minute, you're telling me that just because my parents had sex and I came  
16 into the picture that they're lesser than I am going to be when I'm ordained?" He said,  
17 "That's insanity, it doesn't make sense."

18           So that's part of the aura that surrounds a priest. There's been a massive amount  
19 written, there is what used to be called the privilege of the forum that began in the early  
20 medieval period and only ended with the promulgations of the 1983 Code of Canon Law,  
21 where clergy had the privilege of not going before the civil courts if they committed a  
22 crime. They were dealt with by the ecclesiastical authorities. This was strongly protected  
23 by the hierarchy that, you know, we'll take care of our own problems. That existed until the  
24 promulgation of the new Code of Canon Law.

25           The old code contained penalties. If a person brought a priest before a civil court  
26 without the bishop's permission, you risked ex-communication. So, all of that fed into this  
27 unrealistic and highly stultified vision or understanding of what a priest actually was. I can  
28 tell you, I was ordained in 1970. When I walked out of that church three hours after  
29 I walked into it I was still the same person. I don't recall anything going on inside of me  
30 that had any impact on me. I still had the same likes and dislikes, the same frailties, the  
31 same sins as anybody else. I won't tell you who said this, but a bishop who was very close  
32 to me one time, I asked him, what does this ontological change really mean? And he said  
33 "Tom, that's nothing more than theological gibberish." I believe him because I've never yet  
34 seen an explanation that's adequate. But it is used to continue to shore up this idea that

1 priests are better and staying on a higher plane and deserve automatic deference and respect  
2 and obedience by everybody who's on the lower level which is the 3 million or the  
3 1 million lay people.

4 **Q.** What is the concept of clerical narcissism that you talk about in your report?

5 **A.** The concept of clerical narcissism is a concept that, a couple of psychologists and  
6 I developed it, but we were not — we took that from a lot of different research sources.  
7 The clerical narcissist — of course a narcissist is someone that considers himself above  
8 others, better than others, you're enamoured of your own image, Narcist, Narciss was  
9 paralysed because he couldn't stop looking at himself.

10 Clerical narcissism is something that is both institutionalised and personalised and  
11 it goes with the clerical state, the clerical culture, because you're taught in the seminary that  
12 you're going to be above others who are these lower people that have sex, you're going to  
13 be above them, you're going to have all these special powers.

14 **Q.** Just keep an eye on speed.

15 **A.** Okay. You have all of these very special powers that no-one else will have. You'll be able  
16 to do what no women can do but only a tiny minority of men can do and that's celebrate  
17 Mass, bring Jesus present on the altar. You're entitled to great deference. Now believe me,  
18 having gone through the formation, I can tell you that that is — that does rub off, you do  
19 begin to feel that you're someone special. I had the good fortune to be brought up in a  
20 family where they didn't believe that at all, my parents didn't believe anything special about  
21 me after I was ordained. I have relatives, because I'm Irish with a huge Irish family, who  
22 insisted on calling me Father, which I insisted they don't and they insisted they do. My  
23 father, my own father would have — they never called me father, I would have been  
24 stunned had they done that.

25 But that concept of the priest being better than others is deeply embedded in the  
26 Catholic culture. You have all these magical powers. So it does tend to lead towards  
27 narcissism in one or the other degree, where the priest really believes these things they say  
28 about him. And you believe you're above others and that you deserve special deference,  
29 you deserve special consideration. And this, of course, has a direct impact on the systemic  
30 dimension or causality of sexual abuse of minors by clerics.

31 **Q.** Can you explain for us the concept of clericalism and how that is developed in the system  
32 of seminaries?

33 **A.** Clericalism is a pejorative ism like sexism or racism. It's a philosophy, about clerics that  
34 it's self-created and sustained that because they are clerics and will be ordained or are

1 ordained, they are superior to lay people. There's a special deference simply because they  
2 are clerics and deserve privileges because they are clerics. There was a time, at least in  
3 countries I've lived in, which are two, Canada and United States, there was a time when it  
4 was not unusual if you were a priest in a restaurant somebody else would pick up the tab for  
5 your dinner, things of that nature. You would be given extreme deference in different  
6 things. I was a seminarian, we had to wear a Roman collar and I was picked off to be a bus  
7 driver, Dominicans we had our own bus, it was a used Greyhound bus and I was chosen to  
8 be a driver which meant I had to get a special licence.

9 The day I went down to get my driver's licence to drive this bus should have  
10 involved about an hour and a half to two hour road test where I would have had to drive  
11 this monster into downtown Chicago to navigate without killing anyone. But all I did was  
12 go out and start the bus up and drove it from one end of the parking lot to the other, and  
13 then the gentleman said "Father, you don't have time to waste on this, you're already a good  
14 driver, that's clericalism. He had no idea. But that's the way it works in a nutshell.

15 Unfortunately, clericalism has had a profound impact on the systemic causality of  
16 sexual abuse of minors. Just the very fact that on the hierarchy of values the victims are  
17 sort of on a lower — they are on a lower level and the institution and the welfare of the  
18 clerics are at the top of the level, at the top of the list. That is clericalism. And it's very  
19 powerful to the Church actually becoming and being and living as the body of Christ. The  
20 body of Christ is based on baptism not ordination.

21 **Q.** In your report you talk about the idea from some that the problem of abuse in the Church is  
22 about a few bad apples. You say no, the problem is the barrel itself. How does the  
23 structure and the systems that you've talked about, how does that relate to the phenomenon  
24 of abuse by people within the church?

25 **A.** The clerical structure, the hierarchical structure directly relates to the phenomenon of  
26 abuse. That's the barrel. As you know, we all know now, that it's not a few bad apples.  
27 The Australians found out there were more reports of sexual abuse by Catholic clerics and  
28 brothers than all the other faith groups combined. Same thing in the United States.

29 The institutional Church, the clerical structure, the hierarchical structure of the  
30 clerical world enables sexual abuse, it enables sexual abusers where not even [inaudible]  
31 and it does it in this way. First off, a child [inaudible] with some of these things that I've  
32 mentioned, this reputation, this [inaudible] persona that father can never be questioned, can  
33 never be disagreed with. And it is a great honour to be singled out for any kind of thank  
34 you by father. If father comes to our house for dinner we're special. If he wants me to be

1 an altar boy and go with him for a drive in the country or a weekend at his cabin we're  
2 special, we do that, our parents allow that to happen without questioning. That's the only  
3 profession on the globe that I know of where that could be allowed. So that's one thing. I  
4 could go on about this, but I will say that that's the first issue, the access to victims.

5 The persona, the reputation of the priest allows him to become enmeshed with  
6 families, entrusted and that leads to the grooming process, the seduction process of the  
7 youthful victims who often don't even know it's happening. They have been raised to  
8 believe that priests don't sin, priests don't have sexual feelings at all. So they don't even  
9 think about these things, they don't think at all about being abused.

10 So the priest gradually — and this is most cases, not every one — goes through  
11 this process of grooming, singling the victim out, giving them gifts and the parents, of  
12 course, are in total approval because this is a great honour. There was a time when it was a  
13 great honour to have a kid in the family who would be ordained a priest. That's not the case  
14 anymore in many countries. But that was the case at one time. Some families still fear  
15 that. I've had parents say that my son said to me he wanted to be a priest, I'd send him to a  
16 psychiatrist first, then I'd isolate him on a desert island, second. So that's the first  
17 dimension. The seduction and grooming.

18 The next [inaudible] where a man or a woman, a religious woman, in no other  
19 profession would be able to accomplish that. When the actual sexual abuse takes place, in  
20 most instances, every instance I know, the victim has been stunned. When you ask them  
21 how did you react, "I don't know, it was like I was hit by a bolt of lightning." You know,  
22 they never even conceived, someone couldn't believe it actually happened. They think it  
23 was a hallucination. One boy thought it was a dream until he found his underwear filled  
24 with blood, he'd been raped by a priest, 10 years old. So that's the second stage.

25 And that stage is where the priest often times uses his power to say to the child  
26 "Do not tell anyone because that would be a sin, you don't want to hurt the Church, you  
27 don't want to hurt me. And if you do tell anyone, God will be very unhappy and bad things  
28 might happen." And that has been carried to extremes. One priest told one of his victims  
29 that if he told anyone God would get even with him by going after his parents. That week  
30 his father was in an accident and was paralysed. The priest told the kid "You must have  
31 told someone because look what God did." That is beyond abominable.

32 So they use that. That is also where the other leadership part of the Church comes  
33 in, the bishops, the representatives of the bishops, who initially would try to dissuade the  
34 victims, if they even came forward, of recording or disclosing to anyone besides them,

1 "Don't tell anyone, we'll take care of this". And those attempts to keep the victims and their  
2 families quiet escalated if they sensed that the victims were not going to buy this, you  
3 know, "You're going to take care of the problem, we're not buying this." It would escalate  
4 to threats of ex-communication. I've seen all of this. Any examples I've given you I've  
5 seen many times over. That's the second level where this culture gets involved.

6 Then there is the interaction with the perpetrator himself. Very often if the report  
7 is made the bishop will ask, or the superior will ask the priest you've "Been accused of  
8 this", "I didn't do that, it's not true." They will believe the word of the priest automatically  
9 and not do any further investigation. Or they will, because the fact that he's a priest and we  
10 have to keep the reputation of the priesthood immaculate, so they transfer the man to  
11 another parish or another assignment. That power that goes with the clerical state also  
12 involves sometimes interaction with the media telling them, you know, "If you're contacted  
13 don't publish anything about this." And then of course the next level of influence or  
14 attempted influence was in the law enforcement judicial area.

15 **CHAIR:** Mr Mount, just slow it down again, please. Sorry, just asking you to slow down a little  
16 bit. Just to say that it's — the reception is okay, but sometimes a little bit difficult to  
17 decipher, it gets distorted so our stenographer's having trouble understanding without a  
18 little bit of time. So just another imperative to keep you slowing down. Thank you.

19 A. What I can do during the break is I have a microphone here that I've used for podcasts and  
20 for when I've been interviewed for depositions. I'll bring that in and plug it in.

21 **QUESTIONING BY MR MOUNT CONTINUED:** We'll give that a go, Tom, thank you, yes. I  
22 think the connection is also a little bit poor, but it's worth a try.

23 A. Okay, let me move this thing closer, because there's a mic in the screen. I apologise for  
24 occasionally speeding up. I'm trying to be conscious, I really am.

25 **Q.** You're doing very well, thank you.

26 A. So I mentioned that the clerical aura surrounding the church and priests extends also to law  
27 enforcement and to the judiciary in many countries, and I've heard this and seen it where  
28 evidence will be given to a prosecuting attorney, a district attorney by Police where they  
29 actually caught a priest — this is just an example — involving sexual interaction with a  
30 minor. And the policeman would be furious and frustrated after being told we don't have  
31 enough evidence to move forward on this. Anything similar would have involved an  
32 indictment, it would have gone into the criminal system.

33 If any of you saw the movie Spotlight which was the story of The Boston Globe's  
34 exposure of abuse in Boston, the beginning scene where the priest is — he's in the police

1 station and two monsignors come to take him off. And the young officer who arrested him  
2 said "This will all be taken care of at the arraignment" and the desk sergeant says, "There  
3 won't be any arraignment, there won't be anything else." Then you see the priest being led  
4 away. This was the way it was handled in the past and in the immediate past. That is all a  
5 result of the enabling by the institution.

6 I want to take it to another level. Most of my experience when children have said  
7 something to their parents, if they have said something — and the majority do not — the  
8 parents would not believe them or would punish them because they had said something  
9 derogatory about a priest which was considered to be seriously sinful. That, of course, the  
10 child, in the victim's mind, that meant that the parents were in league with the church and  
11 so they're helpless and they're isolated. "Even my own parents won't listen to what  
12 happened to me." And that's the power.

13 I've seen instances where parents would choose the priest over their own children,  
14 because they had been so brainwashed into believing all of this nonsense about the super  
15 powers of the priest and the sacredness of the Church being more important than the  
16 emotional, physical and psychological welfare of their child. And I'm here to tell you, after  
17 being involved in this as long as I have, there is no position of authority in the Catholic  
18 Church or the Government that is so important that it can justify the spiritual and physical  
19 ruination of one child, not one. I'm convinced of that as sure as I'm [inaudible].

20 **Q.** What is the concept of religious duress that you talk about in your report?

21 **A.** Religious duress is a term that another attorney and I cooked up in 1993. He actually came  
22 up with [inaudible] who had victims going back to 1989. Religious duress is the kind of  
23 internal fear or pressure that people experience based on the — what they believe, their  
24 beliefs about the power of the Church and churchmen. It has a related category and  
25 ecclesiastical canon law and that category is called reverential fear, where you fear  
26 someone not because they're going to hurt you, but you fear a lunatic coming at you with an  
27 axe, but you fear someone because of your connection to them, you fear your parents  
28 because you fear hurting them. You don't want to hurt a priest or a bishop or the Church  
29 because of your respect for that entity in spite of what happened to you.

30 So religious duress is this intense internal duress or pressure that victims feel, and  
31 other people feel, but I'm just going to talk about victims, that influences their decisions to  
32 either do or not do something. Often times religious duress is the fear that they live with  
33 that if they disclose, bad things will happen to them because of their beliefs about the  
34 Church, about priests and about bishops, so they don't disclose.

1 Parents are inflicted with the same condition, so to speak. When they fear  
2 reporting to either law enforcement or attorneys, the fear is put into them by church  
3 authorities. "If you do this you're going to hurt the Church" and they see that as an  
4 immense sin, because the main business of the church is getting people from this life to the  
5 next. So we've got ways on this side.

6 So that's basically what religious duress is in a nutshell, it's explained in more  
7 detail in the report. Now I'd like to mention that this concept, we've used this in the United  
8 States in the civil courts to try to illustrate that some people were incapable of coming  
9 forward and reporting, consequently they're immune from the statute of limitations. The  
10 first attempts were unsuccessful because the defence would say well this is a concept that  
11 has been demonstrated scientifically. You can't demonstrate it scientifically, but we finally  
12 made it in the Supreme Court of Canada, which issued a decision last year that actually  
13 used an article, two articles that I wrote and one that I wrote with Dr Mary-Ann Bankerd  
14 psychiatrist, basically about religious duress and clerical narcissism. And the judge who  
15 wrote the report concluded that as part of the [inaudible]. It also was used in a decision in  
16 Great Britain in a High Court decision, so we're making some headway on that.

17 The point that's important about it is not winning cases, it's understanding, it's the  
18 Church itself, the cleric's understanding what this is and what damage it can do. You can  
19 use it, the power of the priesthood, of the clerical, to bring about a lot of good but you can  
20 also use it to bring about a tremendous amount of bad, and this is one of the worst, the  
21 violation of children.

22 **Q.** We are going to have a break in a moment, but just on this issue of victims, survivors  
23 disclosing their abuse, what is the relevance of secrecy within the Church?

24 **A.** Catholic Church, traditionally, is dependent on secrecy. It prevents the outsiders, the vast  
25 majority of Catholics and others, from knowing what goes on on the inside, not only good  
26 things that go on, but the bad things, especially covering the bad things. There are two  
27 levels of secrecy. One would be cultural secrecy, that's the simple secrecy that is believed  
28 to be absolutely necessary, especially by clerics where they keep it alive. The other is  
29 official secrecy, there are different levels, there is secrecy attached to certain offices in the  
30 Church. I was a judge in a tribunal, I was obliged to maintain absolute secrecy on the  
31 issues that I was exposed to in the cases before me.

32 So there are different levels of secrecy. The top level is called pontifical secrecy,  
33 it used to be called the secret of the holy office. Pontifical secrecy covers a number of  
34 matters and it covers — it used to cover all matters involving the processing of cases of

1 sexual abuse of minors. Everything is covered —

2 **Q.** I don't like to interrupt you, Tom, but we will come back to pontifical secrecy when we  
3 look at the Church response.

4 **A.** Okay.

5 **Q.** So I think perhaps, Madam Chair, this might be a good moment to have that adjournment  
6 for 15 minutes or so, Tom. So we'll have a short break now, if that's okay with you and  
7 we'll come back in about quarter of an hour, Madam Chair?

8 **CHAIR:** Yes, that's fine, we'll come back in 15 minutes.

9 **Adjournment from 10.40 am to 10.57 am**

10 **CHAIR:** Welcome back, Tom.

11 **QUESTIONING BY MR MOUNT CONTINUED:** Tom, can you still see me and hear me  
12 okay?

13 **A.** I can see you and hear you perfectly.

14 **Q.** Excellent.

15 **A.** I was not able to locate the mic, I'll look at the lunch break, I'll look a little deeper.

16 **Q.** Thank you. We were talking about features of the Church that may enable abuse to occur.  
17 Is there any relevance in mandatory celibacy?

18 **A.** There is a lot of relevance in mandatory celibacy that has direct relationship with sexual  
19 abuse. I mentioned one earlier in that it feeds into this mystical aura of a priest that they're  
20 somehow more powerful and have this other-worldly aura about you, you don't need sex or  
21 intimacy or anything like that. The younger the individual is the more that that is  
22 pronounced.

23 Secondly, in preparation for celibacy, to assume celibacy, seminaries, I'm not sure  
24 what they're doing now, but I know for ages, the only preparation seminarians received to  
25 assume a life of celibacy, which means there will be no sexual activity in thought, word or  
26 deed with yourself or anyone else or anything else ever on the assumption that this is  
27 something that could be controlled by the will. So all seminarians were taught was that if  
28 you violate your obligation of celibacy or your chastity it's a sin and if you have taken  
29 religious vows, as I did, it's a double sin because you've also — you're a consecrated person  
30 and you've committed a sacrilege against a consecrated person. So we have all this  
31 information pumped into you about human sexuality, much of it is erroneous and harmful  
32 and toxic.

33 Then the idea of celibacy, the preparation for celibacy, the nurturing of it, the  
34 preparation of the individual to accept and live the life of celibacy is what is important and

1 also the importance that is attached to the clerical subculture, that somehow this removes us  
2 even further and that, you know, a priest, if a priest denies that he ever had sex with a child,  
3 it's believed because he's a celibate. I'm just right now dealing with a case where an  
4 attorney is trying to convince me that a religious woman, who was the accused in this  
5 particular case, could not possibly have done this because she's a consecrated woman. You  
6 know, I'm trying to be polite with this man [inaudible] it's lunacy. So celibacy then has a  
7 direct place.

8 Now it's totally erroneous to say that because a man has taken a vow of celibacy  
9 and tries to live up to it that he automatically is diverted from attraction to age-appropriate  
10 or gender-appropriate people and is attracted to children. That's simply not true. You don't  
11 catch paedophilia, you don't catch any of the sexual disorders because you are deprived of  
12 the ordinary [inaudible]. But the problem is that the mandatory celibacy has an effect on  
13 your psychological and on your maturation process because you are deprived, you're told  
14 you shouldn't have intimate relationships, not necessarily sexual intimate relationships, but  
15 intimate relationships.

16 Many seminaries teach you that you do not develop what we used to call particular  
17 friendships. That was code for homosexual relationships, I didn't know it at the time, but  
18 it's code for gay relationships [inaudible]. That seemed to be, in many instances, fraught  
19 with the [inaudible] that celibacy only applies to marriage with women or in relationships  
20 with women and which, of course, is not true, but that was an attempt at rationalising some  
21 sort of sexual or intimate encounter with somebody else.

22 There have been a number of good studies, good articles written about the impact  
23 of celibacy on the whole issue of sexual abuse. We could discuss this ad nauseam, but you  
24 told me to keep things short and sweet, so I'll do my best.

25 **Q.** From your knowledge, do you have any comment on the likely extent of secret or  
26 concealed sexual lives of clergy around the world in the Catholic Church?

27 **A.** Well, I can speak to that from two dimensions. One my own personal knowledge,  
28 experience and the other is reported experiences. I know for a fact from my own life that  
29 there were priests that I would come in contact with who were members of my own  
30 religious order or diocesan priest or of another religious community that were either  
31 involved in a stable — I'm not sure what stable means in this context, but it was more than  
32 a hit and miss relationship with another person. Many times, that other person is a member  
33 of the same gender, it's a gay relationship. In many instances it is not, it is a heterosexual  
34 gender-appropriate, whatever that means, relationship.

1           But there are significant numbers of celibate, supposedly celibate men priests, who  
2 are engaged in relationships, either one night stands, if you want to call them that, just  
3 simply to satisfy a sexual need. It's not idle rumour to state that in the Vatican in Rome  
4 there have been a number of times when there have been raids on institutions or houses of  
5 prostitution, whatever you want to call them, [inaudible] men, with men, men with women,  
6 and the men were clerics of some sort. I can't give you numbers, but I can tell you this; to  
7 say and claim that 99% of the Catholic priesthood live their celibacy is a fairytale, it's  
8 simply not true.

9           My colleague, the late Richard Sipe had done probably the only ethnographic  
10 study ever done on this and his data showed by ethnographic I mean he based this on  
11 interviews, in-depth interviews with the people. His conclusion was that at any given time,  
12 sometimes 50% or less than 50% of the priests are actually practising celibacy. Now that  
13 was not received well by the bishops in the United States and others because they tried to  
14 keep alive the myth that everybody's practising celibacy; everybody isn't practising  
15 celibacy, that's a fact. That starts with the fact; cardinals, bishops, archbishops, priests,  
16 deacons, all the way down.

17 **Q.** Tom, we'll keep an eye on speed and move to a new topic; the impact of clergy abuse.  
18 What are the effects on victims or survivors that you have seen or studied?

19 **A.** My experience again is two-fold. One from my studies, two, from reports that I have read,  
20 and the, I don't know, I can't even count the number of cases that I've been an expert  
21 witness on where I've had to read in-depth reports. And third, and I believe the most  
22 important for me, has been my own one-on-one experiences with victims. I think first,  
23 when victims often times are first sexually assaulted they're stunned, they're paralysed,  
24 because they cannot process what has happened to them. The damage that is done  
25 ordinarily to a young person who's sexually violated by an adult it impacts ability to trust, it  
26 impacts seriously the ability to enter into intimate relationship with others, it impacts  
27 seriously on the ability to relate in a normal fashion to members of your own gender. As  
28 I mentioned earlier, young boys afraid to let their father's touch them because the one man  
29 they trusted more than their fathers, the priest, raped them, and so they don't want a male  
30 near them. These are the younger ones.

31           You get up the line and there's the issue of trust, trusting adults. People that you  
32 thought you could depend on and trust implicitly and you're taught to trust the church, the  
33 bishops and the priests without qualification and without question and you have been  
34 betrayed by one act of sexual abuse and that's a profound betrayal. Most people need

1 significant, deep therapy to be able to move through the various types of trauma that they  
2 experienced from being sexually abused. The sexual abuse of a Catholic child by a  
3 Catholic priest is a different kind and it's characterised by a psychologist who has treated  
4 many priests and victims, a Jewish psychologist named Leslie Lothstein as soul murder and  
5 as different and worse than other types of sexual abuse because the priest is portrayed as  
6 representing God. Many victims believe "What did I do wrong that God is doing this to  
7 me?" They believe they're being punished and that is the belief that many of them cannot  
8 shake, it stays with them.

9           Victims of sexual abuse by anyone, but especially by priests, if they are abused by  
10 priests or brothers, experience a profound spiritual damage. I've had victims tell me  
11 "I never even knew I had a spiritual dimension until it was taken away from me." This is  
12 manifested by depression, by anger, by an inability to be around clerics. I've known  
13 victims who have become physically sick when they see a priest, or someone dressed like a  
14 priest. [Inaudible] they were unable to go into a church, unable to attend a church service.  
15 One man said to me "I can't even walk my daughter down the aisle at her wedding because  
16 if I do I'm afraid I will have a complete breakdown." This is a result of sexual abuse that he  
17 had encountered, had been perpetrated on him when he was 9 years old and he was maybe  
18 42 when he said this to me. That is not an isolated example.

19           The worst of the effects I believe is the spiritual damage for a Catholic. It makes it  
20 impossible for many to go to family events that are centred around the Church, weddings,  
21 funerals. I've spoken to a number of men and women who were not able to go to a parent's  
22 funeral, not because they were angry at the church, but because the internal, the PTSD, the  
23 post-traumatic stress that they would experience going into the place where they were  
24 violated was so bad that they feared having a meltdown, and in a number of instances that  
25 actually happened. I've been present and seen individuals melt down in the presence of  
26 priests. I was at a wedding one time where this one young woman just freaked out and she  
27 ran out of the church and I just, by instinct because I knew who she was, not really well, ran  
28 out to see what was wrong and then she told me why she did this, because she was  
29 experiencing once again the experience of rape she endured at the hands of the clergy.

30           People have psychological damage, emotional damage, inability to trust, not  
31 uncommon alcohol and drug abuse to kill the pain, a number of victims end up incarnated  
32 in one way or another, end up addicted in one way or another. A number of victims have  
33 died because they've overdosed, or they've committed suicide or unintentionally overdosed,  
34 they died because of that. And I'm not talking about a handful, I'm talking about a

1 significant number. In my experience with this is not just in the US but around to a number  
2 of other countries that I've been directly involved in. So that's a horrific response.

3 One of the dumbest things I've ever heard a bishop say in my life came out of a  
4 bishop who was being deposed, it's a court procedure we have, and asked about what he  
5 would do about the number of youthful young boys who had been sexually abused by one  
6 of his priests and he said, and I quote "little boys heal".

7 **Q.** Say that again sorry Tom, little boys?

8 **A.** This bishop said in reference to the little boys that were raped by this priest "little boys  
9 heal". That is insane. But that showed the level of understanding that this man had of the  
10 after effects of being violated, sexually violated by anyone, much less a priest. I've never  
11 had it happen to me, but I will say, it's happened in my family, and I won't say who, but a  
12 close member of my family was raped by two young men at a party when she was 14. That  
13 had a profound effect on her for years and it only took a massive amount of therapy  
14 because she could even rejoin the human race. It involved sex abuse that she incurred, it  
15 involved drug abuse, it involved rehabilitation, jail and prison. It profoundly impacted my  
16 family in a way that we will never recover from. I know that. I've seen it. I saw the impact  
17 on the parents of that girl. It will never change, it will never be over.

18 So the impact of sexual abuse on victims — the institutional Church, by that  
19 I mean basically the bishops, use a string of euphemistic words to mask or use, or codify  
20 sexual abuse, improper touches, boundary violations, excessive love, misplaced love, things  
21 of this nature that try to downplay and minimise what really is happening. And I'm here to  
22 tell you from my experience, what really is happening is profound sexual violation. Very  
23 often it amounts to forced penetration, either vaginal or oral or anal by the perpetrating  
24 priest, it often times that on a number of occasions where the victim is tied in and can't get  
25 freed up from his bond, that's what's happening. But we try to mask over it to make it look  
26 like it's something casual. "I put my arm around him and he reacted." I've had many  
27 priests say this. "I just rubbed against him when we were playing basketball" and then  
28 sooner or later the truth comes out. And the truth is sickening and sordid and it's toxic, it's  
29 violent. And that's the reality of sexual abuse in the Catholic Church. You have to accept  
30 that and the men and women, especially the men at the top have to understand and accept  
31 that is what we are talking about.

32 **Q.** Are victims of this abuse more vulnerable to prolonged abuse?

33 **A.** They are. Victims of abuse are very often more vulnerable to prolonged abuse because of  
34 some of the things we spoke about earlier, the control that the priest has, the religious

1 duress that we spoke about. The victim immediately, once they become enmeshed with a  
2 cleric, something happens between them and it's called a traumatic bond. That is a term  
3 that was originated by a Canadian psychiatrist named Donald Dutton who worked primarily  
4 with spouses who were abused and tried to answer the question why do profoundly abused  
5 spouses not want to leave the abuser, namely, usually, wives won't leave their husbands  
6 who abuse them. Then we get into the interaction of a priest with a victim and the more —  
7 their victims are afraid that the priest has a hold on them. Often times they threaten them,  
8 "If you say anything you'll be punished. God will punish you, he'll punish your families.  
9 I'll tell them that you came on to me." And believe it or not there are bishops who believe  
10 that 10, 12, 13 year old boys seduce priests. That's another dimension of insanity that  
11 I cannot internalise.

12 But, back on track. This trauma bond is, you know, we look at a bondage between  
13 two people who are — they flirt with each other, they like each other, they love each other.  
14 This is a similar bond but it's toxic, it's deadly. It holds someone in his grip so that the  
15 other party can harm them and they're afraid to separate, afraid to go. And some actually  
16 have felt some form of affection for the perpetrator who they had a lot of affection for  
17 beforehand and this affection continues, and they're confused about the sexual abuse. This  
18 doesn't mean it's okay, it doesn't mean it's the victim's fault, but those are psychological  
19 dynamics that most hierarchy don't understand and need to understand if we're going to  
20 understand the full panoply of effects of sexual abuse by clerics.

21 So one comparison, many of us have heard and remember the Stockholm  
22 Syndrome, the people who were kidnapped in a robbery and became emotionally attached  
23 to their kidnapers. There have been some professional articles written about the  
24 relationship of the psychological dynamic of the Stockholm Syndrome with sexual abuse,  
25 where the sexual abuse is repeated and repeated and repeated and the bond sometimes  
26 totally stops when the abuser departs out of fear of being caught or discovered, or when  
27 something happens and the abused person is able to escape and get out of the situation. But  
28 many of them have said "I didn't know where to go, I didn't know how to tell anybody,  
29 I didn't know the words to use, I was afraid to tell my parents, I was convinced no-one  
30 would believe me, and I'd be punished." Those are examples that are common.

31 **Q.** What are the healing needs of victims, survivors who have experienced what you have  
32 described and how might those needs be addressed?

33 **A.** Well, I think on a — the first level you often consider when bishops or religious superiors  
34 offer to help victims they often times focus on psychological help and they will arrange for

1 them to have psychological counselling. That's fine, but unfortunately the counsellors who  
2 deal with the victims on that level need to have an understanding of sexual abuse of young  
3 people by adults of the unique dynamics and dimensions of that. They also need to have an  
4 understanding of sexual abuse of children, minors by priests. There aren't that many that  
5 have developed this expertise. A growing number are, but there are not that many that have  
6 but that's crucial. I've talked to a number of victims that said "I went to this counsellor a  
7 number of times, it was a waste. He kept asking about my relationship with my mother,  
8 with my father", because he didn't know how to get into what had really happened, even  
9 though he knew it. That's crucial. It takes a great deal of therapy with most victims to help  
10 them to get to a point where they can live a productive life, but there still are the flashbacks,  
11 the PTSD that surfaces its ugly head when least expected.

12 There are often times physiological damage done, especially if there's forced  
13 penetration on a young person, a girl or a boy. That demands the attention of a physician  
14 obviously that's trained in dealing with those types of issues, and that physician also must,  
15 absolutely must have the sensitivity in dealing with this victim that that little boy or little  
16 girl, or maybe not so little boy or not so little girl, is not just a slab of meat sitting on a  
17 table, but is a human that has been profoundly, profoundly violated. And so that part is  
18 essential and that's the part that has many times been overlooked by those who are trying to  
19 help victims and certainly by the ecclesiastical leadership. We don't want to think of that  
20 because the abuse itself is masked over with these silly euphemisms, "I just kissed him, we  
21 fondled, I touched him, oh we had mutual masturbation", which is pretty traumatic for a  
22 little kid, or not just a little child but a teenager, doing it with a priest, it's very traumatic.  
23 But if it amounts to actual rape, that's where you have physical damage done and it  
24 sometimes depends on the age and the manner in which it was perpetrated, the damage can  
25 be lifelong. [Inaudible] if you want me to with the spiritual or if you want —

26 **Q.** I was going to ask, yes, how can spiritual damage be addressed in your view?

27 **A.** I can only tell you what I've done in my attempts. There has been not a great deal of decent  
28 writing about the spiritual damage from sexual abuse by clerics, there's not a great deal  
29 been done. I have not seen anything come out of the institutional church or the Vatican.  
30 The closest I've seen was when Pope Benedict sent his letter to the people of Ireland in  
31 2010, he suggested that the spiritual damage done could be solved by returning to the  
32 Church, the institutional Church. That's not the way you deal with it, that's asking the  
33 victims to go back to the scene of the crime and risk [inaudible] the trigger and risk more  
34 PTSD. I've only meant, in my 36 years, I would say a handful of the victims who actually

1 continue to want to be part of the institutional Church.

2 So what I've done as far as dealing with abuse and of spiritual damage is first  
3 listen and listen as long as it takes. That's pastoral care often times is listening and  
4 absorbing the anger that's going to come out. I've been involved in more transformation,  
5 transference than you can imagine with victims [inaudible] I'm a priest, was an active  
6 priest, they've never seen me in outfits, maybe pictures, but the transference was there and  
7 I've been the recipient of some [inaudible]. One woman said "When I look at you I want to  
8 vomit." It doesn't really help my feelings, but I know that others who have gone through  
9 this and I have to endure that. That's part of helping them heal. I am a target, I'm a  
10 punching bag. Other priests, very, very small number that have tried to offer pastoral care  
11 to victims have encountered the same reaction.

12 Once I've developed some form of trust and we can have an interplay, a dialogue,  
13 I then begin or try to begin, if I think it's going to help and if they think it's going to help,  
14 we unpack some of the toxic thinking that got them to be where they are. And we begin  
15 with the toxic thinking about the nature of the priesthood and priests where we try to get  
16 them to the point, not where I'm — I'm not instructing or lecturing but I can reflect on who  
17 and what I've been with them.

18 And I will say this publicly. Another part of my background that has been  
19 extremely helpful to me in communicating with victims, I am a recovering alcoholic. I  
20 have 29 years of sobriety. That has opened the door with so many victims, because they've  
21 seen I'm a human and they know that I have been in the toilet, I'm been in the bottom of the  
22 barrel, I've been many times where they've been, before I got sober with despondency and  
23 depression.

24 But, so we try to unpack their notions about the principle, and then once that is  
25 done, and that takes some time, I try to move to the next level, their toxic thinking about the  
26 nature of the institutional Church, [inaudible] it cannot condemn you to hell, it cannot, you  
27 know, it cannot protect you from sexual urges, the whole concept of sexual sin, we have to  
28 get into that. So many of them are burdened if they've experienced, as younger people,  
29 some form of involuntary pleasure they don't know, they're not taught involuntary sexual  
30 pleasure is exactly what it says. It's not wrong, it's not sinful. Many of them have  
31 experienced that and they think it's morally sinful because that's the way they were taught  
32 and that goes with them. I try to unpack some of that, the misunderstandings about human  
33 sexuality, that they're not a sinner, they're not bad, they're not evil.

34 I'll cut to the chase on this. We go through then trying to refocus what the church

1 is and what bishops are, because they see bishops all dressed up in their outfits and they  
2 think that a priest is God, the bishop is above God because they're removed. They're told  
3 they're the pillars of the Church, they're the most sacred members of the Church and so on.  
4 And they believe these things and they believe it when a bishop tells them "Don't you tell  
5 anyone" and so on and so forth.

6 The final level often times is their understanding of the higher power. Many,  
7 many, most of the victims I've met when they've finally felt free enough and liberated  
8 enough to admit it will say "I cannot believe in God, I don't believe in God" and I will  
9 recount one instance.

10 I was at a press conference after a trial, a civil trial. The victim was at the press  
11 conference, he was 52 years old and the jury had found in his favour and awarded him, I  
12 can't remember how much. A couple of reporters said to him "Do you still believe in  
13 God?" And he said, and I quote "How could I possibly believe in a God that would allow  
14 one of his priests to come down night after night and anally rape me." That never left me.  
15 That never left me. And that is the image. So we have to try to unpack that.

16 And I've literally told people that's not the right — you need to have a new God if  
17 you're going to have one. Fire that one, get rid of him." And then I go into what we do in  
18 AA. We don't have a religion in Alcoholics Anonymous and I've been a steady part of that  
19 church, if you want to call it that, for 29 years. We talk about a higher power of your  
20 understanding, which I think is more theologically correct than any of the churches that say  
21 "You have to believe that God is what I say he is. He looks like what I say he looks like."  
22 That I'm taking someone else's word. So many, nay victims feel liberated when they get to  
23 that point and feel that they can say "I don't want that God, I don't need that God, he's hurt  
24 me too much." And he's [inaudible] and he's protecting them.

25 So those are the basic steps I think. Helping a person to understand, and as a  
26 recovering alcoholic and having been through the 12 steps, and I can talk more about  
27 spirituality from that perspective, because that's what AA is based on, spirituality. I never  
28 really understood it until I hit bottom and got into the programme, I've done lectures and  
29 [inaudible] role I had as a seminarian and as a priest, I never understood spirituality.  
30 I thought it was something you learned, the way you looked, the way you talked, an affect.  
31 And I go to AA meetings and there are people that are in prison, they're bikers, they're  
32 everything and they're deeply spiritual. Why? Because they know that inside of them  
33 somehow there's a connecting element, there's something connecting him or her to this  
34 higher power and that higher power can be what I want it or understand him or her or it to

1 be. If it's my God it's my God, if it's my wife it's my wife, but it's a power bigger than I am.  
2 And so that's crucial.

3 So those are the basic steps I think of — we say in AA a religious person doesn't  
4 want to go to hell; a spiritual person's been to hell and doesn't want to go back. I can tell  
5 you, having been on the threshold, I understand that, on the threshold of hell, teeter  
6 tottering back and forth. Fortunately, I landed on this side and not that side.

7 So that, in a very brief explanation, is what I've tried to do with victims, and part  
8 of my own work with them is also my own experience in my own life. I had to go through  
9 a profound religious period of searching, of pain and of loss because of what I had  
10 experienced in all of these years in where I was. Everything I had been taught about the  
11 institutional Church, bishops and priests I could no longer believe, it went out the window.  
12 Something had to come into that hole and that something fortunately was my work in the  
13 12 steps, my life in the 12 steps.

14 So that basically explains it. I take them, I share my own story, some of it, and  
15 I listen to their story and their anger and I accept their ways of expressing many of these  
16 things. And I've got to tell you, I've learned more theology from people who probably even  
17 spell the word but knew what it was, from their struggles, both in AA and with sexual  
18 abuse.

19 **Q.** No doubt individual experiences will vary widely, but how long might the period of  
20 treatment or recovery from clerical abuse take?

21 **A.** I think you'd have to ask a psychiatrist or psychologist to give you a better handle on that. I  
22 think the best option, of course, is residential treatment for six to eight months if not longer.  
23 Because they're dealing with a variety of disorders, PTSD being one of them, and God  
24 knows what else.

25 As far as the spiritual healing that's a lifetime process, that's a lifetime process.  
26 Often times it involves ebbing and flowing, highs and lows. I often recommend that they  
27 get someone to function as a sponsor like we have in the addiction world. Every — I call  
28 them the As, AA, NA, everybody who has sponsors who we can lean on, who are  
29 somebody that can help guide us. And I often suggest this, someone who you can talk to,  
30 you can share with, you can open your heart to. Because victims of sexual abuse, more  
31 than any of the rest of us, have a profound difficulty trusting. They cannot trust adults, they  
32 certainly can't trust priests and bishops. That's a sine qua non, don't even expect that, that  
33 they cannot have — they have a hard time trusting adults.

34 I would say it's a lifetime process. It involves spirituality that perhaps for the first

1 time ever in their lives it's a departure from ritual, from externals and from magical  
2 thinking into the real depth and the hard nuts and bolts of spirituality.

3 **Q.** We know that many of these cases take years or decades to come to light. Is the label  
4 "historic" an accurate label in your view?

5 **A.** I find the use of the label "historic" to describe cases as repugnant, as insulting and as  
6 inaccurate; it's insulting to the victims. The only time when abuse is historic is when both  
7 sides of the equation are deceased, then it's part of history. But the scars and the damage  
8 and the pain, it remains. Again, my experience has been with so many super adult, older  
9 adult victims. As I say, given my age, more mature adult victims. We've seen [inaudible].  
10 The pain and the anger is still there. That's not historic, that's now. The crime might have  
11 been committed way back when. But that's not — they need healing often times more than  
12 the ones who come forward not long after the actual rape or victimisation has taken place.

13 I will not use that word "historic" and when I hear it used I [inaudible] way to  
14 discourage its use, sometimes I used to use a little stronger language like I just did, because  
15 this is a forum right now, a lot of people are watching this, a lot of people are listening to  
16 this. And I want to say without equivocation, there is no such thing as a living historic case  
17 of sexual abuse.

18 It should not be treated as numbers or as customers or as something that happened  
19 years or decades ago. Many victims, most victims cannot disclose for decades, why?  
20 Because of the nature of sexual abuse. And that is worse when its victims of clerics or  
21 religious persons, worse because of the fears and the guilt that somehow God is wrapped up  
22 in this. And they've got them all wrapped around in that, the fear and guilt. It's different  
23 than being raped by the mailman or the garage mechanic or your grandfather.

24 **Q.** I want to turn now to the Church's response to the phenomenon of abuse. You're a canon  
25 lawyer. What would be the proper response of a bishop to a report of abuse within his  
26 diocese?

27 **A.** The first proper response when they hear about it? Find out where the victim lives, go to  
28 the victim himself and extend support, understanding in some form — that's pastoral care.  
29 That man or woman should be the most important person in that bishop's world right there.  
30 It's not done, it's hardly ever done. The first phone call is generally to the lawyer not to the  
31 victim, whether it's an older victim or younger. You consider we're religious personages,  
32 we're dealing with souls, with the people guiding people along the religious path  
33 developing their spiritual life. What's happened to them is aptly described as soul murder.  
34 Go to them. If that had happened from the get-go, you and I would not be talking today.

1 That's the way this should have been dealt with from the very beginning.

2 But I think the first response, that's what it definitely should be. Often times  
3 unfortunately the first response is I will refer to this to our victims' assistance coordinator  
4 who will contact the victim and instruct them what they are to do to contact somebody,  
5 meet with the review board; it's all bureaucratic response. What has to happen is a human  
6 response, not a bureaucratic response.

7 The institutional Church is not just us with but with others have been kicking out  
8 protocols, policies, procedures, canned apologies, canned explanations, spending a lot of  
9 money on public relations firms and all for what end? None of that answers the real  
10 question.

11 The real question is, how do I respond to this man or woman who has been  
12 profoundly damaged by the person they trust the most, the link between them and God. It's  
13 not the victims' assistant coordinator, it's not some commission, none of that. Don't send  
14 them a bunch of paper, don't send them a piece of paper to fill out a form, it's not only  
15 counter-productive it's insulting and it further traumatizes and revictimizes them. If you  
16 want to get into canon law I can do that but —

17 **Q.** We don't need to dwell at great length on the canon law, but it may be important to know  
18 whether, in the church law, child sexual abuse is a crime and whether there are reporting  
19 requirements and whether there is a process under church law for a response to child sexual  
20 abuse?

21 **A.** Yes. I can do this slowly and succinctly because I've done it so many times. Let me begin  
22 by saying the institutional Church has a history of sexual abuse of minors by clerics that is  
23 documented back to the year 98 AD. The first actual laws written in the Church were  
24 written at the Synod of Elvira in 309 and there were laws there that spoke directly to sexual  
25 abuse of minors and sexual abuse by clerics. There's a steady path or a trail, a documented  
26 trail and the documents are in the Church's own receptacles, own archives. From that era,  
27 the first century down to the present, indicating that we had known about sexual abuse and  
28 unfortunately, we've never been able to get it right.

29 The Code of Canon Law was first codified, created in 1917. It was revised after  
30 Vatican 2 in 1983. The canons in that code are all grounded in or based on prior legislation  
31 in the Church that goes back into the middle ages. And if you see a copy of the code, you'll  
32 see at the bottom what are called (inaudible) or the sources. They are the footnotes that  
33 make reference to where this or that canon came from.

34 Sexual abuse of a minor, under 16, is mentioned specifically in the code of 1917

1 and 1983. Sexual abuse of a minor by a cleric is a canonical crime punishable by a number  
2 of ecclesiastical punishments. Up until 1983 the maximum was what was called  
3 deposition. In other words, you were like permanently suspended, but that could be  
4 reversed. In 1983 it was jacked up and the maximum penalty was dismissal from the  
5 clerical state, fired as a priest, or bishop or Cardinal. So, the crime is there.

6 Now there is a section in the penal law code called the preliminary investigation.  
7 I equate that in my own country to what a grand jury does, and the bishop receives the  
8 report from any source, including unsigned letters, anonymous reports or just tales going  
9 around the community. He has an obligation [inaudible] to investigate that report, to see if  
10 there's any, even a bit of smoke to that — to the fire that is the accusation. To see if there  
11 are any possible proofs.

12 This is not the trial, this is looking at the possible evidence. If it's a complete  
13 figment of someone's imagination, hallucination, that's one thing. But if it isn't, if it's an  
14 anonymous letter that has enough specificity about it, it doesn't just say this priest did this  
15 at that time, but Father so and so in this parish this time has been doing this and I'm not  
16 signing a letter because I'm afraid of the consequences. The bishops usually threw that  
17 away because it was unsigned. That's not the way to do it. The commentaries and the  
18 codes say even those kinds of communications had to be respected, and we had to be  
19 reminded of that once again this past year when the Pope announced — the CDF issued a  
20 document called a vade mecum which is a reminder of how to apply these canons. So that  
21 says if there's a report there must be an investigation.

22 This investigation, when it's completed, it has to be documented. The results are  
23 given to the bishop and the bishop makes the decision as to the next step. So, the  
24 individual, he now decides on whether to deliver an indictment, to either initiate a judicial  
25 canonical procedure or a judicial administrative procedure. That was the way it was done  
26 up until 2001.

27 In 2001 another decree came out of the Holy Office, the Congregation For the  
28 Doctrine of the Faith, that said that after the initial investigation is done the results are to be  
29 sent to the Congregation For the Doctrine of the Faith in Rome. They would decide what  
30 happens next. They would either remand the case back to the diocese with instructions to  
31 have a trial, or they would send it to another place, a change of venue, or they would have  
32 the trial at the congregation itself, or depending on the circumstances, they would  
33 recommend to the Holy Father immediate dismissal. There's so much evidence, there's no  
34 sense in going through a trial, we recommend that the priest be immediately dismissed. So

1 that's where it goes now.

2 Now this preliminary investigation is mandatory, it's mentioned in the code of  
3 1917, in two documents issued since the 1917 code, in 1922 and 1962 each document had  
4 the same name, Crimen Sollicitationis, in English means the crime of solicitation, which  
5 included the procedures for investigating and prosecuting four kinds of sexual crimes by  
6 clerics, including solicitation for sex in a confessional, homosexual relations with another  
7 person by a priest, because all priests are men, bestiality and sexual abuse of minors. They  
8 had to be processed according to those rules. It was repeated in 62 and again it was revised  
9 in 2001 and at that time the requirement that the case be remanded to the Holy See was  
10 included.

11 That's the Church's official canonical response. There's also canons that say  
12 anyone, especially those who hold ecclesiastical office who know about the committing of  
13 a crime and either [inaudible] the criminal or fail to do something about it share in the  
14 liability for that crime. I would translate that into English — not doing anything. Listening  
15 to a complaint and not doing anything.

16 These procedures I just outlined were hardly ever used, not only in the United  
17 States but in other countries. I have reviewed probably a couple thousand cases and I've  
18 only seen evidence that the required canonical procedures were used approximately ten  
19 times; five times in the United States, twice in Canada and the other three in South  
20 American countries, that's it.

21 **Q.** Our connection was a little tricky there. How many cases have you reviewed did you say?

22 **A.** I've probably the reviewed the files of a couple thousand. And these are cases where I've  
23 been an expert witness where you review the case of the accused himself. Many times I've  
24 had to review the cases of files of all the other accused priests in the diocese to establish  
25 what our lawyers call pattern and practise. Plus, other cases for other reasons. But I have  
26 reviewed a lot.

27 **Q.** There was a body you mentioned, the CDF or Congregation For the Doctrine of the Faith.  
28 Can you explain that body briefly for the Commissioners please?

29 **A.** I can't explain it, I can tell you about it. It used to be called the Inquisition. The Inquisition  
30 was a court system that was founded in the Church to deal with heresy and we all know the  
31 dark story of that. The Inquisition actually only went out of business at the end of the  
32 maybe 19th century, beginning of the 20th century. And its name was changed to the  
33 Congregation For the Holy Office and the primary duty is protecting the integrity of  
34 Catholic doctrine. So, they would decide who was a heretic, who wasn't a heretic, what

1 books to condemn, what books not to condemn.

2 But they also had authority given to them over certain other issues, and one of  
3 them was the sexual violation of children by priests. This Congregation For the Doctrine of  
4 the Faith now is, or what used to be called the Holy Office was the department where cases  
5 were submitted for laicisation. Now the only laicisations they do are punitive ones  
6 involving sex abuse.

7 But that is the congregation, probably the most powerful congregation in the  
8 holy — in the Vatican. They have a court system, they have their own rules of procedure,  
9 they have their own personnel and that's where these cases end up. That's where appeals, if  
10 a case is tried on a local level, on a tribunal level with a tribunal process, and it is appealed,  
11 the appeal must go to the Congregation of the Doctrine of the Faith, the appeal is then  
12 reconsidered on the appellate level.

13 That in a nutshell — it's had three names, the first was the Inquisition and the last  
14 person executed by the Inquisition I believe was in either Mexico or Spain in 1830  
15 something. Things do move on, it's no longer considered socially acceptable to burn  
16 heretics, you just condemn them to hell, then began the Congregation of the Holy Office,  
17 and the Holy Office was the congregation, that was it. They then were changed by Pope  
18 Paul VI after the second Vatican Council for the Congregation For the Doctrine of the  
19 Faith.

20 These changes took place to remove the office from the dark cloud that hung over,  
21 certainly from the Inquisition, and then from the Congregation For the Holy Office, it did  
22 not have a good reputation, because, you know, they condemned a lot of people for what  
23 they called heresy, and they continue to do that. And you didn't even know you were being  
24 adjudicated until you got a letter telling you that you had been condemned. So that's the  
25 CDF in a nutshell.

26 **Q.** You have told us what the response of the church should be, both at a canon law level and  
27 also on a human level. Can we talk about what the response of the institutional church has  
28 been in fact to cases of clergy abuse in your experience?

29 **A.** Yes, I can sum it up by saying that the institutional Church in the papacy down to the local  
30 level, has failed implicitly in its response to the worldwide phenomenon of sexual abuse of  
31 minors by clerics, failed miserably in every country where it has surfaced, and it exists in  
32 every country where there is an established clergy of any kind. The only country on this  
33 earth that I know of that has not had any problems, the two countries that have not had any  
34 problems with sexual abuse, maybe three that I know of, are Antarctica, because there's

1 nobody down there but penguins and American military and some Russian military;  
2 Bhutan, which is at the top of the world and is wholly, I believe, Buddhist; and Nepal. So,  
3 it's surfaced in every other country. And the response of the institution has been terrible,  
4 because the institution has responded with a variety of [inaudible], denial that it even exists,  
5 minimisation, a few bad apples but everybody's really basically good, look at all the good  
6 that priests do. Forget the good that priests do, look at the damage that's done with just one  
7 or two victims. As they say in the bible, you save one life you save the world, you destroy  
8 one world and maybe you destroy a chunk of the world as well, the Catholic world. So,  
9 they've failed, denial, minimisation.

10 One of the very unfortunate side effects has been the evaluation of the victims and  
11 the reporters, their families, by demonising them, by making them feel guilty, by isolating  
12 them and by often times even allowing the community to get on this bandwagon to  
13 condemn these terrible people who are making these awful accusations about Father, you  
14 know, while we're trying to kick up another money to pay for Father's defence costs in our  
15 little parish.

16 In one case I knew of two kids in the same family were violated by the priest, the  
17 mother went and reported it, she lived in a small town in Ireland, and she and her husband  
18 had what they call a provision store, we call them a 7-Eleven in the US, I'm not sure what  
19 you call them over there, but you know what I'm talking about. They were run out of  
20 business by the townspeople because they were looked upon as the enemy because they had  
21 said this terrible thing about a priest, even though everybody knew it was true.

22 So, you have minimisation, you have demonisation or devaluation of the victims,  
23 shifting the blame to the culture, you know, people don't go to confession enough, people  
24 don't believe in the Church's teaching on birth control. I could go down a list as long as  
25 both of our arms combined of nonsensical reasons that have been cooked up to explain this.  
26 The bottom line is, somebody from our [inaudible], one of our men or one of our women  
27 has done a terrible, terrible thing and we have to respond accordingly. And our first  
28 response has to be to the victim not to cover the tracks, not to protect the institution, not to  
29 worry about our reputation, but to take care of that person and that's not the way it's been  
30 done.

31 If it had been done that way and we fumbled all over the place with dealing with,  
32 you know, helping the victim, helping the perpetrator, if we at least knew enough to go on  
33 and listen and give them a shoulder to cry on then we'd be two-thirds of the way there, but  
34 we're not there yet.

1 **Q.** What sort of attitudes towards victims have you seen from the church?

2 **A.** Their general attitude has been they're a nuisance, to they're an enemy, to they're the disease  
3 that hurts the Church, they say bad things about priests and they're not true, or they won't  
4 let it go, they can't move on and heal. It's like saying to somebody, you know, we just  
5 amputated your legs, don't worry about it they'll grow back. I said that a little too quickly,  
6 I'm sorry. It's like telling someone who's had their legs amputated, wait a while they're  
7 grow back. It doesn't work that way.

8 So the attitude in general has been — and now because the victims have taken  
9 charge of their own destiny. Up until our era the institutional church was in charge and ran  
10 the response to sexual abuse by clergy, and it surfaced a number of times throughout  
11 history. This time the institutional Church, the bishops and the Pope are on the defensive,  
12 they're not driving the bus, the victims are driving the bus. And they're making headway  
13 and they're insisting on doing it the right way. Because never before has it been in the  
14 courts as much as it is now. And [inaudible] governed entity had actually investigated the  
15 Catholic Church for these kinds of crimes, not only in New Zealand, in Australia, in the  
16 US, but it's going on in other countries, Ireland, England, Scotland.

17 So the attitude to the victims have not been good, to sum it up. Pope Jean Paul II  
18 ignored the victims, he knew in detail what was going on, at least by February 1985, and  
19 I know that because I composed the report that was signed by my former boss and sent to  
20 him where he read it personally, and it was graphic. He did nothing but sympathise with  
21 the bishops until 1993 when he issued his first public statement that basically said it's the  
22 fault of the American materialism and the sensationalism of the media, and the only best  
23 way to cure it is by prayer and American needs much prayer as it moves its soul. When  
24 I read that letter I wanted to tear my hair out.

25 **Q.** What attitudes have you seen towards lawyers acting for victims or survivors, and how fair  
26 are those attitudes in your view?

27 **A.** For the most part I can go back again and say that I've encountered two classes of lawyers  
28 who've worked and represented victims. One class are the ones who've gotten involved  
29 with one or two cases and then got out of it and said "I never want to go near that again"  
30 because they've never dealt with litigating against the Roman Catholic Church and they've  
31 never encountered somebody on the other side of the table quite like the Church, and it's  
32 very common for attorneys to say "If their lips are moving presume they're lying", because  
33 they've encountered so much mendacity and so much roadblocking by the institutional  
34 Church refusing to give documents over to tell the truth and so on.

1           So you have that batch of lawyers. Then you have another significant number of  
2 attorneys who are the ones who did for the victims what the clerics should have done when  
3 they met them. They listened, they offered sympathy, they offered understanding, and they  
4 believed — they went above and beyond what they have should have done as lawyers. One  
5 Jewish attorney said to me, he said "I knew I had to be a Rabbi for this kid and I don't know  
6 how to be a Rabbi, I'm a lawyer." So I said "What did you do?" And he told me, I said  
7 "You did the right things, you listened, you let him sit there and talk to you and to get it all  
8 out." That's what a lot of the attorneys have done, in my experience, both here and in some  
9 other countries.

10           Then there's a number of them, now there's a whole new batch coming out because  
11 we have a new flood of cases in the United States because of the changes in laws, in the  
12 reporting laws in several states after they expanded to allow victims who were time barred  
13 to come into the courts. Let me add that the only opposition to changing this legislation in  
14 the United States, most of it has come from the Catholic bishops and some from the  
15 insurance industry and some from the Boy Scouts, but mostly in the Catholic bishops who  
16 have injected and spent in — I believe there was one number I saw, and I think it was  
17 connected to New York State, \$10 million hiring lobbyists to prevent change in legislation.

18           Go back on track, lawyers. So I've seen that with the lawyers representing the  
19 victims. I've seen many of them where it's transcended being simply a client and me doing  
20 a job for a [inaudible] case, which is what we call them over here, to it becoming a cause,  
21 where they've taken great risks. They've mortgaged homes, businesses and everything else  
22 to finance the case, knowing it was going to take a lot of time before we got anywhere,  
23 because the Church has tonnes of money to pay lawyers and they're taking it all on  
24 contingency. I understand you don't have this same dynamic in New Zealand, but we do  
25 here and they do in a number of other countries. So that's what I was seeing.

26           I've seen a number of attorneys, who become close friends of mine, I've seen a  
27 number of them lose all faith in the Catholic Church and trust in the system, and some lost  
28 faith in God because of their involvement.

29           That's the kinds, that's basically the two classes; the ones who do it once, do it  
30 twice, "I'm out of here", they don't want any more to do with it and then others who will go  
31 the length and say "I'm committed to helping" and it becomes more than just a couple of  
32 occasions, it's a cause.

33 **Q.** You talked earlier about spiritual damage potentially requiring a lifetime of response. Have  
34 you seen the Catholic institutional Church grapple with spiritual damage, to understand it

1 and to try to address it?

2 A. I've seen — I haven't seen the Church as an institution where the top level has issued  
3 guidelines, or said tremendous spiritual damage is done, we need to look and research what  
4 this is and how to fix it, but I've seen instances of clerics and bishops and priests and others  
5 who are realising this and trying to address it, trying to find ways to address it. I've been  
6 building a file of articles, some written by religious women, some by religious men and  
7 clerics who try to address this issue of the spiritual damage. Some have done it without  
8 having had any contact with victims and some have done it the way I've done it, that's a  
9 lived experience and a result of what I have seen.

10 So I think that area is finally being looked at, not the way it should be by the  
11 institution, the [inaudible], the bishops should have that number one and I begin to wonder  
12 do they know how to establish any type of criteria, do they know how to even look into  
13 spiritual damage. Because spiritual damage is much more profound than not going to  
14 church and being angry at the priest. It gets into deep depression and despondency, it's  
15 very, very profound and it's very complicated. And it cannot be cured or helped by going  
16 back to church, going back to communion, or as one bishop told a young woman I know,  
17 "Go and make a good impression and come back to Church" and she got up and as she was  
18 walking out of his office she said "Archbishop, you are the one that needs to go to  
19 confession, goodbye."

20 So I have seen some efforts on that regard. And I have to say in all honesty I've  
21 seen efforts across the board of clerics searching and trying to do the right thing, of being  
22 touched by seeing and their experiences with victims how serious this really is. The  
23 institution as a whole isn't there yet, we've still got a long way to go.

24 Q. Have you seen any differences between statements by the Church in inquiries such as this  
25 one, or in public statements, and the way the church has conducted individual cases,  
26 whether in lawsuits or otherwise?

27 A. Oh, absolutely see differences. I mean I've read, I can't tell you how many policies and  
28 procedures. I've talked to many, many victims who have gone to talk to victim assistance  
29 coordinators, or diocesan review boards and said "I felt I was at an inquisition. They didn't  
30 believe me, they were cross-examining me and I got up and walked out." That's the  
31 response that is not unusual. It's not every place, but it's there.

32 So there has been a chasm between what should be done according to their own  
33 policies and procedures and what actually is done. And one of the thoughts I believe is that  
34 the policies and procedures are very often cooked up and the primary input is from and it

1 should be from the victims. The victims themselves need to be listened to, they need to be  
2 respected, they should be on every board, if you're going to have boards, they should be on  
3 every administrative [inaudible] should be a counsellor, that's across the board. It would be  
4 as if you're going to go into medicine and you want to become a pathologist but you're  
5 afraid to go to an autopsy, you don't like the look of blood.

6 That's an honest response, it's not a fanatic exaggeration but it's a fact. That's why  
7 there's so much variation. Now it's easy to [inaudible]. I know for a fact, I know it's been  
8 confirmed here, that many dioceses have public relations firms that they cook up, they  
9 create statements which they're going to make, they create statements for any diocesan  
10 officials to make if they get an inquiry, a public relations firm who's very much involved in  
11 putting together the meeting of the Catholic bishops that took place in Dallas in 2002. It's  
12 unfortunate that any bishop any diocese has to hire the public relations firm to make him  
13 look like he's doing what he's supposed to be doing. There's something wrong with that  
14 picture.

15 **Q.** To what extent has the church institutionally focused on maintaining its own power and  
16 stability as part of a response?

17 **A.** I think it's continued to worry primarily about its image, sometimes in more subtle ways  
18 than it did before, but I think the worry is still there. I think the insistence that the church  
19 can do its own investigations, that it can take care of its own business in this regard  
20 (inaudible), it's still concerned about its image. I think the continued demonisation of  
21 victims, which still exists, is another evidence. In fact, for example, I was a consultant to  
22 the Papal Commission For the Protection of Minors. I quit. The fact that two survivors  
23 who were on that Commission quit because they felt there was so much blockage going on  
24 by the Vatican Curia that nothing was ever going to happen.

25 Those are realities. So I think in spite of the concerns, and it's inevitable because  
26 the Catholic Church is a hierarchical, governmental entity, the prime movers, the pillars are  
27 the bishops. So it's natural that they believe they have to protect the sanctity, because we  
28 teach that that's the gateway to heaven. The way you get to heaven is through the  
29 sacraments and the gateways, the stakeholders of the sacraments, the men who are the  
30 care-takers are the clerics, officials and priests. So there's bound to be, without question, a  
31 natural need to protect the image and integrity of the institution.

32 **Q.** I think we may be allowed about another 15 minutes before we need to have a break here  
33 and you certainly have earned a break. I have two topics. Firstly, some of the  
34 developments over the last two years, 2019, 2020 coming from the Vatican, and then

1 I wanted to talk about the future and what changes might be made. So you can tell from the  
2 15 minutes that we don't have a lot of time to talk about the changes emanating from the  
3 Vatican in 2019 and 2020. Is it possible to summarise those and give us your view about  
4 how much of a difference they will make?

5 A. I can. I can summarise by saying that I think those are moves that both Pope Benedict XVI  
6 and Pope Francis have made, have been very positive. Now Benedict, you know, did meet  
7 with victims, which just the fact that he did that says a lot. I think he was befuddled by this  
8 whole issue that he's led such a sheltered life he had never encountered it face-to-face. You  
9 can (inaudible) murder mysteries, you can watch movies, but it's different than meeting a  
10 murderer face-to-face.

11 But he did have the courage to actually laicise two bishops and the bishop -- the  
12 last laicisation of a bishop before the year 2008 was in 1807, I believe, when (inaudible)  
13 was laicised at his own request by Pope Pius IV, I think, the VI, one of them. He was a  
14 French churchman, he was a diplomat, but he was also a (inaudible).

15 Francis comes along and does what nobody else — he actually apologised for  
16 making a mistake. He has also fired bishops who have abused children, he removed  
17 Cardinal McCarrick from the College of Cardinals and then he had him removed from the  
18 clerical state. The last time a cardinal was laicised from my own research was Cesare  
19 Borgia whose father made him a bishop and a cardinal and then de-cardinalized him because  
20 he didn't want to be a priest any more, he wanted to be a warrior.

21 But Francis did that and he has made moves that I think have gotten the attention  
22 of bishops who began to realise this is serious stuff. If he's firing bishops and a cardinal for  
23 this, it's big stuff, it's not small, it's major. So that's I think a major move. Now a lot of  
24 people that are in my area, I guess, and my side of the fence disagree. But I find -- I still  
25 have a lot of hope for the institutional church, because I do fundamentally believe in the  
26 spirit of Christ. So I think it may not look like it's been there for a long time, but I think  
27 that one or two people do the right thing.

28 Francis is trying, he responded to that nightmare in Chile by removing the bishop  
29 who he put in place against the objections of -- there was a riot at this bishop's consecration  
30 because he had covered up a priest who was sexually abusing children. So Francis has  
31 made some turnarounds.

32 But the problem, I think, is that the institutional church continues to approach this  
33 issue from an administrative standpoint, an administrative basis, and I believe that is  
34 basically the only way they know how to do it, is issue a decree, put together some

1 procedures, issue some orders, [inaudible] problem, it's [inaudible], it's trying to fix a  
2 hardware problem with software solution. It is not going to work. So I think there is some  
3 hope, it's going to take a long time [inaudible]. Am my 15 minutes up?

4 **Q.** We better talk about the future.

5 **A.** Okay.

6 **Q.** In your view, what would be the most important component of a better response by the  
7 institutional church to abuse?

8 **A.** My view the most important thing is what I've been saying all along. It is the one-on-one,  
9 compassionate contact between the leader of the diocese or the religious order and the  
10 victims. It takes time, it takes effort, it's very, very painful, but these should be the most  
11 important people in the church at that time. That would be a mammoth move forward,  
12 mammoth. Rather than treating them as customers, as people who fell down the church  
13 steps and are now suing us.

14 Soul murder, keep that in mind, their souls have been trampled on, they've been  
15 run over with a bulldozer and they need compassionate care and help from the most  
16 important person to give it to them. When that has happened, the few times that has  
17 happened, it's had a profound impact on the victims. [Inaudible] over the years, when I've  
18 spent time with them and believe that I've built some trust, I've said to them, "I want to  
19 honestly and sincerely apologise to you, tell you how deeply sorry I am for what we have  
20 done to you." I'm still part of that cloth, "for what we have done to you." And I have not  
21 had one person yet say to me "Oh, that's already been said to me". Not "I'm sorry for the  
22 pain you've experienced, I'm sorry that mistakes were made, I'm sorry that Father did this to  
23 you". No, we did it to them, clerics, the whole culture, we did it, all of us. Not just the  
24 perpetrator, he's part of a bigger culture, a bigger tsunami, whatever you want to call it, but  
25 that I think is the most important thing.

26 Get away from all the commissions, all the rules, all the regulation, all that stuff,  
27 deal compassionately and realistically with the perpetrators and deal compassionately and  
28 kindly and understandably with the victims. If you can't, work at getting there, work at  
29 getting there. And I'll tell you, in my experience dealing with alcoholics (inaudible), I've  
30 had to go to Al-Anon myself to deal with my own anger at people I've been counselling  
31 even though I'm one of them and dealing with the denial, the craziness, the lunacy and all  
32 that.

33 So learn how to do it, learn how to do the path of compassion. Unfortunately  
34 bishops aren't allowed to be. They have to be administrators, they have to be businessmen,

1 they have to go meetings. I mean one bishop I knew, a good guy, felt he was losing his  
2 mind because all he was doing was going from one meeting to another. He said "I feel like  
3 buying a robot, and then I just want to get in my car and drive around the diocese."

4 **Q.** There are many calls in New Zealand for an independent body to investigate and address  
5 claims of abuse. In your view, is the Catholic institutional church capable of dealing with  
6 this phenomenon purely internally or is there a role for an independent body?

7 **A.** I think I totally support the idea of an independent body, and I mean totally independent,  
8 because that way they can be objective and they can see things for what they are. The  
9 institutional church on any level cannot heal the problems it has created. It has created  
10 these problems not just because of the bad apples, but because of the culture that has come  
11 from the church itself. It's deeply, deeply embedded. And when I talk about research into  
12 [inaudible] I'm not talking about why a few priests have done this [inaudible] as deeply as  
13 you can into where these ideas about the priests came from, where these ideas about the  
14 sacraments came from, where all of this came from that is causing this toxic thinking.

15 So the institution, no, I don't believe at all. If it could it would have done it by  
16 now. Because, for example, in my country the institutional Catholic Church has paid out  
17 over \$6 billion because of sexual abuse of children between 2004 and 2019, those are the  
18 numbers. That doesn't count lawyers, they've paid out almost \$650 million to their own  
19 attorneys to defend themselves. That's a lot of money. It keeps coming out though. You  
20 ask yourself where is it coming from?

21 **Q.** You've emphasised the importance of involvement of victims in designing better systems.  
22 You may or may not have any insight into this from a US perspective, but is there a role for  
23 indigenous populations specifically who have been harmed in that sort of design?

24 **A.** Yes. I say that because I have had experience, both in Canada and in the United States. A  
25 priest, for example, the State of Alaska as you know is huge, it's the top of the world, in the  
26 top part of Alaska is a diocese called Fairbanks that was founded and is run by Jesuits. In  
27 my experience dealing with that a number of the Jesuit priests (inaudible) in a small village,  
28 a number of these men were violating, sexually violating not just the native peoples, but  
29 these young girls that were called Jesuit volunteers that were products of your own  
30 universities who were going up there like peaceful to do work. So that's one example.

31 And these were people who felt totally helpless. You know, these men come in,  
32 they try to first off make us Catholics and then try to Europeanise us, and have no respect  
33 for our own cultures, our own customs and our own languages. Same thing has happened  
34 in Canada in both the northwest and the northeast, the indigenous people in Canada, in the

1 United States we all them native Americans, the same thing has happened here in --  
 2 especially on the reservation where they live, where there are schools or parishes and  
 3 churches where the clergy have violated these individuals and a lot of stems from an  
 4 attitude that they are second class citizens. So there you have it. You had four tiers before  
 5 in the church, now you've got five, you've got those that were below even with us.

6 So yes, there is definitely a role, absolutely there's a role for indigenous people,  
 7 because the question has to be asked what's different about abuse in our culture. You  
 8 know, the way its handled, what do we need for healing? What do we need to see happen  
 9 to the perpetrators? So they're the only ones who can answer. I think in your country the  
 10 indigenous people should be on every board that's discussing this, that's making a decision,  
 11 the same thing with us, and it's happening over here.

12 **Q.** Our 15 minutes has expired I'm afraid. Can I thank you very much for your generous  
 13 contribution to this Inquiry and your time and the benefit of all of your experience. What  
 14 we will do now, subject to Madam Chair and to your own availability, will be to take a one  
 15 hour break, so I think that would mean reconvening at about 8.30 pm your time.

16 **A.** Sure. I'm here to help you, believe me. If you want to go until 3 am my time, I'll do it.  
 17 And I'll do it primarily (applause) (inaudible) for the men and women in your country who  
 18 have been violated. The only reason I do this is for the victims.

19 **Q.** I don't know if our microphones could pick up the applause in the back of the room, but  
 20 there was, I think by popular acclaim, the idea of 3 am has met with some support, but  
 21 Madam Chair you may have a view from the institutional perspective.

22 **CHAIR:** I also have to think about your human rights and we don't want to be accused of torture,  
 23 but we are extremely grateful for your willingness and, as Mr Mount has said, it was met  
 24 with acclaim, your generosity was met. Let's take a break and we'll resume again in one  
 25 hour, thank you very much. I hope you can have some rest and respite in the meantime.

26 **A.** I'll be fine, thank you very much.

27 **Lunch adjournment from 12.31 pm to 1.36 pm**

28 **CHAIR:** Welcome back Tom. I won't say good afternoon, this is probably the late evening now.  
 29 I understand there a couple of other matters that you'd like to raise with Mr Mount before  
 30 he finishes with you. Is that correct?

31 **A.** That's correct.

32 **Q.** Then I will put you back into his hands. Thank you Mr Mount.

33 **QUESTIONING BY MR MOUNT CONTINUED:** Thank you Madam Chair. Tom can you  
 34 still see and hear me?

1 A. Again, perfectly. Can you hear me?

2 Q. We can, thank you very much. I'm going to break all of the rules by asking you a question  
3 I have no idea what the answer will be. But there were, I think, a couple of things that you  
4 wanted to add to your evidence from earlier today?

5 A. Yes, that's correct. One was something that my late colleague Dr Sipe, Richard Sipe  
6 thought a lot about, talked a lot about, it's this. We spoke about celibacy, mandatory  
7 celibacy and you asked me if there's an incident among clergy where they don't follow.

8 Q. Yes?

9 A. Richard's theory, and I think it's very strong, is the fact that there are a lot of ranking  
10 clerics, by that I mean bishops and higher, who are involved in sexual relationships and this  
11 has had a negative impact on justice for the victims because there's a fear of exposure,  
12 there's that issue, that built-in hypocrisy that causes a significant problem there when that  
13 happens. I know, for example, I'll just give you one example. One situation in the United  
14 States where there was a lot of sexual abuse and a lot of perpetrators run loose, there were a  
15 lot of reports, nothing was happening, until -

16 Q. Just keep an eye on the speed I'm sorry Tom.

17 A. Okay. There was a situation in the United States in 1993 in Albuquerque, New Mexico  
18 which was almost the epicentre of sexual abuse at that time. A lot of perpetrators were  
19 getting away with it, nothing was happening to reports, then it was discovered that the  
20 Archbishop himself was compromised and had been engaged in relationships with a couple  
21 of young girls. They were age-appropriate so it wasn't illegal but a lot of the priests knew  
22 this, so there was like a kind of a reverse double blackmail, if you want to call it that.

23 But that is a problem where you have that level of that going on upper levels and  
24 of course when that's going on up there and someone else knows about it, there's certainly  
25 going to be a hesitation about presentation about applying the rules at a lower level,  
26 because of the fear that somebody else knows about it.

27 The other thing I wanted to bring up, we mentioned at the very beginning the issue  
28 of the bishops' authority and religious orders and religious orders' relationships with  
29 bishops. That came up, has come up several times apart from this. I have seen -- I read  
30 Cardinal Dew's testimony and Father Duckworth's testimony and in their testimony they  
31 have it correct, the bishop has significant authority over religious orders in his diocese over  
32 what they do and the religious orders in the diocese by the same token are answerable to the  
33 bishop in all matters involving any form of pastoral work, even if the order owns the  
34 school, owns the land, populates it with its own men, they are still answerable to the bishop.

1 Is that clear?

2 **Q.** Yes.

3 **A.** Okay. That's it.

4 **Q.** Tom again, thank you very much, and Madam Chair.

5 **CHAIR:** Thank you. I'll now invite Ms McKechnie who is counsel for the Catholic Church or Te  
6 Tautoko to ask you some questions. Thank you Ms McKechnie.

7 **A.** By the way my screen just went black.

8 **QUESTIONING BY MS McKECHNIE:** That's an excellent start then, Tom. I'll start with can  
9 you hear and see me?

10 **A.** I can see you, okay. You've got a blue --

11 **Q.** Blue jacket on, yes.

12 **A.** We're on the same page then.

13 **Q.** Perhaps a better start than I thought. My name's Sally, Tom, I'm going to be asking you  
14 some questions on behalf of the Catholic Church entities in the Commission.

15 **A.** Okay.

16 **Q.** I've only been granted about an hour to ask questions, Tom, so two things I'm just going to  
17 say in introduction. First, if you are able to give me concise answers please, because I do  
18 have a number of questions to ask you that I want to get through in the next hour. So  
19 please short, sharp answers would be very helpful.

20 And secondly, your evidence talks about a huge range of issues and much of those  
21 issues will be discussed later in the Royal Commission's work. So today I'm going to focus  
22 my questions on the redress parts of your brief because we don't have very long, so most of  
23 my questions are going to focus on that.

24 When the Commission asked you to give evidence, have they talked to you about  
25 what redress means in New Zealand, what we mean when we talk about redress?

26 **A.** No, and I was going to ask you if you would mind explaining that or defining it to me  
27 because I know what the word means. We don't use that over here in the States, we don't  
28 use that word in connection with this. But I've seen it used prolifically in documentation  
29 literature from both New Zealand and your little brother to the north, Australia. So I guess  
30 if you give me an idea what you mean by it it would make it a lot easier for me to give you  
31 straight answers.

32 **Q.** Tom, I'll just take some direction from the Chair. I'm conscious it's in your terms of  
33 reference, is this appropriate for me to do this?

34 **CHAIR:** Yes, I think you give your understanding of that, perfectly fine.

1 **QUESTIONING BY MS McKECHNIE CONTINUED:** So, Tom, I'll tell you what the Catholic  
2 Church thinks redress is about, that's probably the appropriate thing for me to do. It's about  
3 responding to survivors or complainants when they approach the church with a disclosure.  
4 So that full response part, pastoral, legal, financial, counselling, that whole process is what  
5 we in New Zealand mean as redress. It is not so much about what happens to the  
6 respondent and the disciplinary processes, but there is a bit of overlap where a number of  
7 survivors want to know what happens in that process. But when we talk about redress in  
8 New Zealand, and what I want to ask questions about today, is that responding to the  
9 complainants and the survivors rather than those disciplinary processes for the clerics and  
10 religious. Is that clear?

11 A. That's very clear, yeah, I understand now exactly what you're saying. As I said, they've  
12 used that word over here with that definition because it does encapsulate a very crucial part  
13 of this whole process.

14 Q. One of the things I want to explore with you this afternoon, Tom, is how the American  
15 response to redress is different to New Zealand and if there are some lessons in  
16 New Zealand we can learn from that American experience.

17 Before I get to those questions, I just wanted to ask some initial questions about  
18 the canon law. You are the first canon lawyer to give evidence to the Commission, and am  
19 I right that, like civil law, there are differences of opinion between canon lawyers and  
20 differences of emphasis?

21 A. Yes, there are.

22 Q. And the role of the canon lawyer within the church, am I right, that's in order to advise  
23 senior members of the church about their canon law responsibilities?

24 A. That's one of the roles. The other roles, there are a number of officers or positions that  
25 require a canon law degree: to be a judge, an ecclesiastical tribunal, to hold a number of  
26 judicial positions, one must have a canon law degree because it is a complicated legal  
27 system, significantly different than the legal systems of democratically-based countries.

28 Q. So, would it be the same as in our civil process, in order to become a judge, you must have  
29 a law degree, in order to become a canon judge you must have a canon qualification?

30 A. That's right, exactly.

31 Q. So, in the context of providing advice, Tom, when a canon lawyer gives advice to a client,  
32 to a senior cleric, it's for the client ultimately to decide what to do with that advice, isn't it?

33 A. Correct.

34 Q. And canon law applies most directly to priests and clerics?

1 A. Parts of it apply directly to priests and clerics. Parts of it apply directly to non-ordained  
2 religious and parts of it apply directly to lay people. If you take a look at the code, it's got a  
3 broad spectrum of issues that it deals with, it has an entire book on procedures, it has an  
4 entire book on this section, that's what we call the books in the code. One on crimes and  
5 penalties, one on the sacraments, religious life, the clerics. So, it does — I'd say primarily  
6 it deals with, in a number of dimensions, with clerics, bishops and priests. But not —  
7 certainly not to the exclusion of the other people in the church.

8 **Q.** Would I be right to characterise it as setting the framework for life in the church, setting out  
9 those structures and procedures that you've just talked about?

10 A. Yes. It is a source of understanding the church's structures, the obligations of various office  
11 holders, the way to get an office, how do you attain an office, the requirements for office,  
12 office of pastor, office of bishop, office of tribunal judge, yeah, it has all of that,  
13 requirements for receiving —

14 **Q.** So, in the context of redress that I described to you before, canon law isn't particularly  
15 directly relevant, is it, it doesn't set out how a bishop or a priest should respond to a  
16 survivor?

17 A. It shouldn't. There is a possibility, there's a canon that talks about recompense in certain  
18 types of cases. But that's not — I've never seen that applied. So, I would say that redress  
19 as you understand it is not directly involved in canon law.

20 **Q.** Turning now to the evidence that you've given in your expertise from the United States,  
21 Tom, you say very responsibly in your brief at paragraph 34 that your submissions are  
22 based on your experience in the United States and in several other countries. So, I'd just  
23 like to talk a little bit about the US so the Commission have a sense for context about the  
24 differences. Can you remind me please, how many bishops are there in the American  
25 Bishops Conference?

26 A. There are approximately 197 dioceses, archdioceses in the United States. So, each diocese  
27 has a bishop or an archbishop. There are probably around 400 bishops or members of the  
28 Bishops Conference, and that includes ordinaries, the diocesan bishops, and auxiliary  
29 bishops and retired bishops are also members, can be members. But active, you've got let's  
30 say 187–97 dioceses and archdioceses. That only is the Latin rite churches. Then we have  
31 several dioceses of the Eastern rites in the United States as well, they are a small minority  
32 but they're here.

33 **Q.** I think we'll stick to the Roman Catholic examples. Tom, it's probably most —

34 A. Good.

- 1 **Q.** — relevant to what we're talking about here. So that's obviously very different to the six  
2 dioceses, one of which is an archdiocese, we have in New Zealand. In America, are  
3 typically the archdioceses the largest of the dioceses in their group of dioceses? Is that the  
4 way it's arranged in the States?
- 5 **A.** Well, it's arranged all over in terms of what they call ecclesiastical provinces, which would  
6 be an archdiocese and several suffragan dioceses, that's called a province. And the Holy  
7 See names, creates the dioceses and decides which will be the metropolitan archdioceses.  
8 Now it could be the largest in size, it could be the most historic, it could be the only  
9 available one when they created it back in, let's say, the 19th century and then other cities in  
10 the area become quite, you know, much bigger. So, it all depends, there's a lot of  
11 possibilities.
- 12 **Q.** And a lot of variation clearly between different arrangements?
- 13 **A.** That's right, exactly.
- 14 **Q.** So, you set out in your brief, Tom, your exposure to New Zealand and that you were here in  
15 the late 1980s and met with the then Cardinal. And you've obviously had some  
16 engagement with the SNAP Survivor Network and other survivor groups here. Have you  
17 met any of the current New Zealand bishops or Cardinal Dew?
- 18 **A.** No, I haven't been back since 1988 I think or '89. So I haven't met any of them, that I  
19 know of, that I can remember.
- 20 **Q.** Well they can't remember either, Tom, so it's probably safe to say that you haven't met  
21 them.
- 22 **A.** Yes.
- 23 **Q.** There's not really much in your brief about New Zealand specifically, is there?
- 24 **A.** No. I was actually not asked to do a comparison or to give critiques of any of the, you  
25 know, about — I mean they knew ahead of time that I'd only been there once and certainly  
26 to give a good critique of everything that's going on there, all the details, I'd have to be  
27 there for quite a while to make something intelligent. But, New Zealand is part of the  
28 global — the New Zealand Catholic Church is part of the universal church, and believe me,  
29 essentially there's not that much difference.
- 30 **Q.** Well what I want to explore with you now, Tom, is some of the things that might be  
31 different in the redress context for the Commission. One of the things you talked about  
32 when Mr Mount asked you questions was about schools and the responsibility that the  
33 bishop in America has for his schools. Now, in New Zealand we have quite a different  
34 structure and I was wondering if you were familiar with the legislation in 1975 which goes

1 by the title the Private Schools Conditional Integration Act. Are you aware of that  
2 legislation?

3 A. I've never heard of that, but I've read some information on the schools that are set up and  
4 the ownership of the properties and so on.

5 Q. In short, Tom, it means that in New Zealand now, and for many decades, all the employees  
6 in Catholic schools, whether they are religious or not, are employees of the State and the  
7 State pays, appoints and pays for all of the staff. I was wondering what your views would  
8 be on the impact of that on the responsibility of the bishop for those schools?

9 A. If that school or any of those schools are called Catholic schools, that's a technical word  
10 which means they are under the overall authority of the local bishop. If he has — if they're  
11 just there and they have no connection to the Catholic Church the answer would be no, he  
12 has nothing to do with them. But as is the case in a number of other countries, similar to  
13 what you have there, the State pays salaries, for example in Germany the State pays salaries  
14 to priests. That doesn't remove them from the authority of the bishops.

15 So, if there is a connection between the dioceses and the schools, and if the bishop  
16 has anything to do with appointment of principals, if the people in the schools, let's say, are  
17 brothers, or nuns, or if they purport to be a Catholic school, yes, he does have authority  
18 over that [inaudible].

19 The mistake a lot of people make is thinking that ownership, money and  
20 ownership of property or buildings, determines the applicability of church law and church  
21 regulations in certain situations. It does not. For example, if in the Diocese of Wellington,  
22 the Jesuit order owns five parishes — owns them, they have title to the land, the buildings  
23 — that doesn't mean that they're removed from the authority of the bishop as far as his  
24 responsibility for any and all pastoral work.

25 Q. Well there are, in fact, no Jesuits in New Zealand at all, Tom, but if I could just go back a  
26 little bit to your answer, you talked there about: if the bishop has roles in appointing the  
27 principal, if there are religious priests, brothers or sisters teaching in the school, or if the  
28 school is called a Catholic school. Now I want to ask about that last one, because our  
29 schools are Catholic in name, but these are State, lay employees. So, for example,  
30 chemistry teacher, might be Jewish, might be Anglican, who is employed in a Catholic  
31 school, in your opinion is the bishop responsible in canon law for that lay, let's say,  
32 Anglican chemistry teacher?

33 A. Well, let me just say that that's a difficult question to answer, because I'd have to take a  
34 look at the actual documentation of the relationship of the local bishop to that school. Now

1 it calls itself a Catholic school, my first question is why?

2 **Q.** So, would it be right to say, Tom, the best place to look then is our specific legislation,  
3 would you agree?

4 **A.** I would — the legislation and also the — any documentation, anything that makes — that  
5 speaks about why that is a Catholic school, what that means in New Zealand. Are they  
6 under some — anything that has to do with the care of souls, which is a technical term,  
7 which is any dealings with lay people that's under the aegis of the Roman Catholic Church  
8 in any way. Even if the church owns a restaurant, that counts, that's under the authority of  
9 the bishop.

10 **Q.** So, looking at one of the other differences, Tom, are you familiar with New Zealand's  
11 universalised healthcare and our Accident Compensation regime, and its relevance that  
12 those things may have to redress?

13 **A.** No, I wasn't informed that I needed to familiarise myself with either of these two issues.

14 **Q.** Thank you. I want to turn to some of the specific issues that you discuss in your brief and  
15 in your answers to Mr Mount's questions. In your evidence, there is some, but not much,  
16 discussion about male and female religious. I wanted to ask you to describe the importance  
17 of the congregation of the Institutes of Consecrated Life and the Societies of Apostolic Life  
18 with regards to the religious. Are you able to explain to the Commission?

19 **A.** Yes, the Institutes of Consecrated Life is a generic term that refers to a number of different  
20 specific types of religious institutes, religious orders, congregations, societies and both —  
21 there are men and women that fall under those categories. There are a number of things  
22 that differentiate them, whether they take public vows or private vows, whether they don't  
23 take vows and make promises, and all of these have canonical differences and I don't think  
24 there's — it's necessary to go into them right now.

25 But the whole issue of consecrated life, religious orders, religious communities,  
26 they're part of the institutional Church, they fall under the authority of the local bishops  
27 insofar as they're engaged in any type of pastoral or ministry with the lay people, whether  
28 they're teaching chemistry, whether they're having discussion groups, if there's a  
29 relationship, connection between members of one of the institutes, male or female, with  
30 people in the diocese, that comes under the authority of the bishop.

31 **Q.** You've talked quite a lot about that in your evidence, Tom. What are the limits of that  
32 responsibility?

33 **A.** The bishop has authority over any activity, any action that involves the care of souls. Now  
34 that means the spiritual and moral welfare of the people in the diocese. It's not

1 (inaudible) — I'm sorry, go ahead.

2 **Q.** There are some quite significant limits, though, aren't there? So, for example, the bishop  
3 can't remove a member of a congregation from ministry or from their own congregation,  
4 can they?

5 **A.** Yes, he can. The bishop has the authority if a member of a congregation is out of line, if he  
6 has reason to do it, he can ask the superiors to remove the individual from the diocese. If  
7 the superiors refuse to do so, the next step is the bishop goes to the Holy See and gets  
8 faculties to do the removal himself. The bishop also has a right to inspect schools,  
9 orphanages and other similar institutions, it's called visitation, which means inspection, in  
10 his dioceses. So, the limits — basically, you can look at the structure, the administrative  
11 dimensions of it, but the issue is the people. If a priest and a religious order priest sexually  
12 abuses a kid, a child who goes to a public school and he does it in a park, that falls under  
13 the authority because that little child is part of that diocese, whether he's Catholic or not,  
14 and the priest is under the authority of the bishop as far as his connections or interaction  
15 with the lay people are concerned.

16 **Q.** So, in the context of redress, and money that might be paid in redress, the bishop can't  
17 direct a congregation about financial matters like that, can he?

18 **A.** Let me make sure I understand what you're saying. Can the bishop order a religious  
19 superior, let's say, to make financial redress to a victim? Is that —

20 **Q.** Yes, that's a decision for the religious superior, not for the bishop, isn't it?

21 **A.** I believe that would be, because that would be — would fall under [inaudible] the  
22 congregation, so not so much the local superior but the provincial superior who would be  
23 the equivalent of the major superior, which means administratively he's [inaudible] because  
24 he's in charge of several communities.

25 So, that has happened in our country a number of times, when you have a mixture  
26 and they're working out settlement agreements, the terms of settlements agreements, and  
27 I'm talking about large numbers where there are religious orders and diocesan all mixed,  
28 and so it can get kind of legally confusing depending on your legal system. But we had a  
29 huge one in California where the settlement was for \$660 million.

30 **Q.** So, approximately how many superior generals are there of congregations in the States?

31 **A.** Superiors general of congregations of men or women?

32 **Q.** Both.

33 **A.** I don't know. I'd have to look it up and count it, there's a lot of them, let me just say that.  
34 Wait a minute, time out. You said superiors general?

- 1 **Q.** Yes?
- 2 **A.** Okay, that's different. The only superiors general that would be in the United States, there  
3 may be a few who are superiors general of what we call pontifical right institutes which are  
4 directly under the Holy See, and that means the Holy See has the authority over the internal  
5 work of the institute, their constitutions, things of that nature. Most of the superiors general  
6 of those are in — they live and they work in Rome. There are a few smaller international  
7 communities that I believe have their superiors general live in the United States. Then you  
8 have institutions that are what they call diocesan right, they're founded in a diocese, they're  
9 sponsored by a bishop and they've never been elevated to pontifical right. Those would be  
10 the instances where the superior general of that community, let's say they have houses in a  
11 number of dioceses, the superior general would live in that country. I don't know how  
12 many of those there are in the United States.
- 13 **Q.** You talked a bit in your evidence about clericalism and I anticipate we will return to that  
14 later in the life of the Commission, but briefly now, you'll be aware of the strong direction  
15 that Pope Francis has given against clericalism, particularly in the context of sexual abuse.  
16 Do you agree that that's a positive development?
- 17 **A.** Yes. I think he's spoken out very strongly several times. But I also want to say that one of  
18 the things I learned early on when I began working on the inside, in the system, is there is  
19 an overall fallacy in Roman Catholicism that if an authority figure makes a statement, that  
20 becomes reality. It's not that way. The Pope has spoken out several times about clericalism  
21 and the hope is that that will be internalised on a number of levels by individuals, where the  
22 evidence of clericalism will gradually fade because it's a cultural issue, it's deeply rooted  
23 and just a few, you know, brilliant things said by the Pope will not make it go away  
24 overnight by any means.
- 25 **Q.** So, we've already discussed the fact that you don't have specific New Zealand experience,  
26 but just to be particularly clear on this point, are you familiar with Cardinal Dew's  
27 comments and approaches to this specific issue of clericalism? I assume that you're not?
- 28 **A.** No, I'm not. But I can only assume they'd be in line with headquarters.
- 29 **Q.** I want to ask you some questions now about formation.
- 30 **A.** Sure.
- 31 **Q.** You talk quite a lot in your evidence about American formation and you're very critical of  
32 it. What do you know about formation in New Zealand?
- 33 **A.** Now are you talking about seminary formation?
- 34 **Q.** Yes, well we'll start there, we'll talk about religious formation in a minute but I had taken

1 your evidence to be about seminary formation, so yes, I'll ask that question first, what do  
2 you know about it here, Tom?

3 A. I don't know a great deal, all I've seen is, I've read up about the structure of the two  
4 seminaries, the academic structure, the courses and so on, what goes on in the seminaries. I  
5 understand that they have a significant number of seminarians I think from outside the  
6 country.

7 My issue with the seminaries goes beyond what the curriculum is, that's not what  
8 I'm interested in at all. Our seminaries, or yours, or the Canadians or anything else. I'm  
9 talking about something much more fundamental that I'm concerned about in the  
10 seminaries, in all of them; that they simply — they may be working on it and some places  
11 may not be. I haven't taken a poll of all the seminaries in the world, it's just impractical and  
12 it's really not necessary.

13 Q. So, just to be clear then, you're not aware of the particular approach to issues such as  
14 preparation for celibacy that are approached in the New Zealand formation training?

15 A. No, all I would say is that I certainly would hope that [inaudible] that what's going on in a  
16 number of other places, they are working at making it up-to-date and realistic as opposed to  
17 the way we would frame when I was in seminary, which was a long time ago. I did not  
18 intend to make any criticisms of the seminaries in New Zealand or any comments on them  
19 at all, it wasn't part of the mandate. But since you brought it up —

20 Q. We're going to stick to the succinct answers, if you don't mind.

21 CHAIR: I do think Tom should be allowed — you've asked a question and he wants to follow-up,  
22 and if you can do so shortly, Tom.

23 A. Sure. The things that I'm concerned about in seminary training, whether it's in  
24 New Zealand, Australia, United States, Canada, France, it doesn't matter, are: one, the  
25 instruction or the formation seminarians are being given in realistic pastoral care, how do  
26 you really do it, listening to people; two, that this issue of sexual abuse of children is  
27 worldwide, are they being instructed, are they being trained or given some formation on the  
28 nature of sexual abuse, the impact it has on victims, the multi-faceted impact on victims,  
29 some kind of approach to offering pastoral care to the victims, because inevitably these  
30 young priests go out, they're going to have someone come to them and ask them either  
31 myself, my son, my daughter, my mother, father something of that nature, and to be able to  
32 deal with that in a compassionate way; and finally, I think it's crucial that the education  
33 that young men receive in the seminary for celibacy formation and human sexuality be not  
34 doctrinaire or hard-lined Catholic moral theology but much more realistic in keeping with

1 where we are in the world today.

2 **Q.** Thank you, Tom, I'm sure the Commission and indeed the church have noted your  
3 questions. When we provide evidence to the Commission on those subjects we'll be sure to  
4 cover off those issues, Madam Chair, so you can know what the Church's position is on  
5 those in New Zealand.

6 I'd like to ask you some questions now, Tom, about the redress process in the  
7 United States, albeit that you don't call it a redress process. You talked quite a lot in your  
8 evidence about lawyers and litigation as part of redress. In the States, is that the way  
9 survivors need to take to get money from the church, do they need to sue?

10 **A.** Yes. The original — when this started back in the late '80s, the phenomenon of going to  
11 court, no-one did it. People did not go to court to sue the diocese for things like sexual  
12 abuse by a priest, it just did not happen. The reason the initial — in the beginning why  
13 parents or victims, usually parents, went to court, was because of the way they had been  
14 mistreated by ecclesiastical authorities when they approached the diocese and were put off,  
15 telephone messages not answered, lied to about that the priest is still working when they  
16 were told he was not.

17 In those instances, a number of these very devout Catholics turned to what they  
18 felt would be the only place they would get redress, and the primary thing they were  
19 initially interested in was not money, but making sure that the priest did not do this to  
20 anyone else, and that has been a universal almost. And that's why the process or the  
21 tendency of going to the civil courts, that's where it started, and it started as a reaction to  
22 the lack of any redress [inaudible] in those areas from the institutional Church.

23 **Q.** So, this litigation approach, Tom, that would involve lawyers on both sides, lawyers for the  
24 church and lawyers for the survivors?

25 **A.** Yes.

26 **Q.** I was particularly interested in your comments on that, Tom, because it's quite different  
27 from the experience in New Zealand.

28 **A.** I understand that.

29 **Q.** So, I'm just going to give you some of the statistics that we have for the Catholic Church in  
30 New Zealand and then I'm going to ask you for your comment on those in the context of  
31 this litigation framing that the Americans have. So, in New Zealand we have — the church  
32 has information about approximately 1,100 disclosures of harm or abuse, sexual and  
33 physical, but here only 13 civil claims appear to have been filed by survivors, out of 1100.  
34 Secondly, of those disclosures, only 24% of them does the Church have a lawyer or get

1 legal advice. So, given those numbers are so different between America and New Zealand  
2 I was interested in what comments you might have about that?

3 A. The only comment I can make is it was explained to me how different the issue of litigation  
4 is, that that is not the place where you normally go to get financial redress in the courts in  
5 New Zealand, which is significantly different than the United States. So, the only thing I  
6 can say on that is simply that it is different. Our situation, where we are with that, given the  
7 fact that you have a diocese where the bishop says "I don't want anybody going to court and  
8 I'll give you each \$2,000" after their lives have been ruined, that doesn't work too well, and  
9 as a result of those attempts, the victims generally will end up back in the civil courts.

10 But as I said, and I'll say this again, the primary concern has been to make sure  
11 that these priests that do this don't do it to anyone else. I've had more victims than I can  
12 count say "They can give me as much money as they want, it doesn't take away what  
13 happened to me, it doesn't make me whole again." They understand that, and I do too.

14 Q. In your extensive work with the victims, Tom, is there a reluctance, or why do you think  
15 there's a reluctance for victims to go to the Police to have prosecutions?

16 A. There had been a reluctance at one point because the victims, at least the ones that I've  
17 spoken to and heard about, they were of the opinion, based on experience, that nothing will  
18 happen. If you go to the Police, nothing will happen because they're in the pocket of the  
19 Church. And that has been the case in a number of places. It's not so much today anymore.  
20 Where now a number of us [inaudible] to diocese. If you're going to do investigations, get  
21 the people in there who know how to do it, get the Police involved, rather than trying to do  
22 it yourself, because you're not trained.

23 So, the reluctance to go to the Police has been more historical, more in the past, of  
24 the feeling and conviction of the Police really won't do anything for us, they'll do it or if  
25 they do want to do something for us, as has been the case in a number of instances, they  
26 can't because then they get to the next level in the county, and you don't have counties I think  
27 in New Zealand, the next level up and the district attorney or the prosecuting attorneys will  
28 not move on a case because of deference for the church.

29 Q. The role of the Catholic Church in American society more generally is quite different to  
30 New Zealand, the sort of religiosity and deference you're talking about in our State  
31 institutions; you haven't seen anything to suggest that's the case in New Zealand, that our  
32 Police force wouldn't operate in deference to the church?

33 A. No. I don't have any information on that, I've not seen anything, I've not been asked to  
34 even look into it.

- 1 **Q.** So, just picking up on the comment that you made about investigations and your call to  
2 have people come in to do the investigations who know what they're doing, how do you  
3 think an investigation should be run in the context of a disclosure of harm?
- 4 **A.** Could you repeat — in the context of disclosure of harm, what exactly —
- 5 **Q.** If somebody comes forward, we use a phrase in the Commission, Tom, a 'disclosure', if  
6 someone comes forward with a complaint or a claim or a disclosure of harm to a priest or a  
7 bishop — in terms of the investigation of that allegation or that disclosure, in your  
8 experience, in your view, what sort of investigation should be undertaken?
- 9 **A.** What has been happening over here now is they're referred to the Police. Usually someone  
10 in the Chancery or in the church's administration will have a communication with the  
11 district attorney, which is the legal department that's in charge of that — I'm not — a  
12 Crown attorney I think would be a comparable term in New Zealand, I'm not sure, we call  
13 them district attorneys, will make a disclosure to him and then they take it from there. If  
14 there's going to be a Police investigation, then the Police come in and do the investigation  
15 as to whether or not a crime was committed, because in the United States, and I believe so  
16 in New Zealand, sexual abuse of a minor is a felony crime and the same thing over here,  
17 and so if it's an accusation of that nature, and that's reported then it needs to be [inaudible].
- 18 **Q.** I want to ask you some questions, Tom, about situations where the Police aren't involved.  
19 So, the first one I want to ask you questions about is where the perpetrator is dead,  
20 obviously the police can't do an investigation. So, in your view, what's the best practice  
21 way of running such an investigation, where the Police aren't an option?
- 22 **A.** Where the police aren't an option and the perpetrator is deceased, I think the first thing I  
23 would do would be recommend that you get as much of a story from the alleged victim as  
24 you could and anyone that knew the victim, then the usual procedure is to find out if there's  
25 any corroborative — any sources of corroborative evidence for that, classmates, anything of  
26 that nature.
- 27 But the most important thing is the credibility of the victim and establishing the  
28 credibility of the victim, and that generally is not too difficult if the victim really is a true  
29 victim. Now, there have been cases of false alarms where it's not simply been  
30 misunderstanding, or it's not just been an identification of the wrong person, but an honest  
31 attempt to defraud. And those have been weeded out, so to speak, fairly quickly.
- 32 **Q.** Who should conduct that sort of investigation, Tom, are we talking -- would you think a  
33 trained investigator was the appropriate person to do that?
- 34 **A.** I would think so.

- 1 **Q.** And you'd recommend speaking to other people to seek corroboration of what the victim is  
2 telling the organisation?
- 3 **A.** I would, to get a full picture of what's going on, that would be one part of it, but it would  
4 depend on a lot of the circumstances. And I don't think a lot of these issues you can come  
5 up with a set of protocols that are going to apply uniformly, when the perpetrator is  
6 deceased, as is often the case, that's going to change the tenor of the situation, it's going to  
7 change the direction you take. I'll go back to what I said at the beginning, the most  
8 important part is the pastoral response to the victim. Maybe the victim doesn't want  
9 anything, except to be acknowledged and to be supported.
- 10 **Q.** I will ask you some questions about the pastoral issues in a moment, but before we leave  
11 just this investigation question, the other scenario is where the survivor has been  
12 encouraged to go to the Police or supported to go to the Police, but they don't want to, but  
13 they want a response from the Church or the church entity. What would you recommend in  
14 terms of investigation for those cases?
- 15 **A.** I — If the survivor does not want to go to the Police but they want to have investigation  
16 and it was a case where a survivor was violated as a minor that may be out of that person's  
17 hands, it's a crime, it's a felony crime. And I would think that even though we may not  
18 want the Police involved, they may have to become involved anyway, whether you like it  
19 or not. [Inaudible] if the perpetrator's still alive and is still, you know, out in public, if he's  
20 deceased it's a whole different thing. I think if you take all that out of the way and say  
21 we're just going to have a non-official investigation, I think the best way to do that would  
22 be to bring in someone who's trained in doing criminal investigations, which is what this is,  
23 it's an investigation into a crime, someone who's trained to do that. I can assure you, we are  
24 not trained to do that in the seminary, nor in canon law school, nor in any of the other  
25 advanced degrees I had was I ever taught how to run an investigation.
- 26 **Q.** What's your view, Tom, about what threshold of evidential proof should be used in that  
27 investigation, what approach should they take?
- 28 **A.** Well, it's going to involve evaluating the facts of whether it actually took place, presuming  
29 [inaudible]the accuser, the victim, which usually is the case. Then the threshold would be,  
30 it would have to be set by what's available. You can't say, you know, we can't move on this  
31 unless we get two witnesses. That applies only in a very small number of canonical-type  
32 investigations. But this is certainly different, and I think the threshold would depend on the  
33 case itself, on the facts of the case, when it took place, how it took place, the circumstances.  
34 So, I can't give you anything cogent on a uniform threshold because I don't think there is

- 1 one.
- 2 **Q.** You touched briefly, Tom, in your answer then on canonical processes. I had a couple of  
3 questions just to clarify the canonical trials evidence that you were talking about earlier.  
4 Am I right you can't, and there wouldn't be a canonical trial, when the accused is deceased?
- 5 **A.** You can't try a dead person, no.
- 6 **Q.** And you wouldn't have a trial if there had been a confession or an acknowledgment of  
7 offending?
- 8 **A.** If the accused admits what happened, if he admits to having committed the canonical crime,  
9 no, there's no necessity for the trial at that point. What there is a necessity of is assessing  
10 what the penalty would be. Now —
- 11 **Q.** If you've had a criminal process and a prosecution and a conviction, in that situation you  
12 wouldn't then have a canonical trial, would you?
- 13 **A.** Not necessarily. If there's a conviction and the individual did not confess, and he was  
14 convicted, then you might still have to have a canonical trial. But all of these investigations  
15 now have to be sent to the Congregation for the Doctrine of Faith. They make the decision  
16 as to what the process will be. So, you don't have to worry about that, nor does anybody  
17 else in New Zealand. That goes over to the [inaudible], they look at the facts and they  
18 determine if there will be a canonical process, a tribunal process, an administrative  
19 dismissal, if they want to have a trial they'll remit it back and say have a canonical trial  
20 either in the diocese where it happens or with a change of venue.
- 21 **Q.** And you're aware we've had very few canonical trials in New Zealand?
- 22 **A.** I'm aware of that and I'm aware of the fact that there have been very very few canonical  
23 trials everywhere.
- 24 **Q.** I want to ask you some questions now, Tom, about that pastoral aspect of a response to  
25 survivors and that part of the redress process. You've made a number of comments in your  
26 evidence that I want to come back to and ask you some more questions about. The first  
27 one, you made a comment in your evidence earlier about your view of how important it was  
28 for a victim to be engaging with people who have a background in spirituality when they're  
29 talking about how to respond and recover. I'd be interested in your thoughts, Tom, about  
30 how this could be done in the context of an independent process or redress framework, how  
31 do you balance those two things?
- 32 **A.** Well, I want to first off — do you have a reference to a paragraph in my report where  
33 I talked about that?
- 34 **Q.** You used that phrase in answer to Mr Mount's questions. I don't have the transcript in front

1 of me yet, but you used the phrase engaging with people with a background in spirituality  
2 and how important that was. Shall we start again. Would you agree that's important?

3 A. That came out — that's not what I said. What I think I was referring to is if you're dealing  
4 with the spiritual damage that has been done to a victim, and you engage them with this,  
5 that most of the people who have a background in spirituality really have not ventured into  
6 this area, or have not had any contact with victims and there's a massive amount of  
7 documentation written about spirituality, but spiritual damage is something significantly  
8 different and the damage done to a person who has had this experience is very very  
9 different than other forms of spiritual damage if you want to call it that.

10 So, I don't remember saying anything like that. What I was saying is most people,  
11 let's say who teach spirituality at seminary, who are experts in it, have no training in the  
12 area of the spiritual damage done through sexual abuse.

13 Q. So, in order to be appropriately trained, in your view, there would need to be a knowledge  
14 of spirituality and then independent training in how to respond, psychological training or  
15 counselling training brought together to respond, is that your view of best practice?

16 A. If someone were going to try to put together a protocol, some suggestions in how to go  
17 about dealing with the spiritual damage done to victims, we don't have time to wait 10  
18 years for a university to cook up a programme on how to do it. But there are ways, and it's  
19 fundamental simple pastoral care, listening is the most important. It's not something you  
20 learn out of a book. But you have to be, as I said in my response to Mr Mount, allow the  
21 person to speak and unpack and describe what they think to be the harm that's been done to  
22 them, the effects of this on them. Don't lecture, don't do any of that, just listen and gently  
23 guide to help and clarify some issues or, as I said, clarify some of the toxic thinking that a  
24 lot of people have about aspects of the Catholic Church.

25 **CHAIR:** Can I just ask as a point of clarification, Tom, it seems to me we may be thinking about  
26 two different things here. One, Ms McKechnie's asking you questions about investigation  
27 of an allegation or a disclosure, and the process that follows. As I understood your  
28 evidence about spiritual damage you were talking about the first response, I think you said  
29 by a bishop, who receives such a disclosure in one way or another, was to take an approach  
30 of contacting the survivor and speaking on these spiritual matters providing spiritual  
31 pastoral care. Am I right in that or have I got that wrong?

32 A. No, you're correct. I think there's a difference in what I'm using the term to mean. The  
33 initial contact with a victim I would consider to be something dealing with the spiritual  
34 dimension because it is a religious issue, it's happened in a church context and most victims

1 can't even describe what spirituality means, most anybody can't really describe what it  
2 means. But what I'm saying there is that the approach of the bishop to the victim is — has  
3 to be one of compassion, of understanding, of sensitivity, and listening, the most important  
4 thing is listening, and maybe asking questions —

5 **Q.** Do I take it — sorry to interrupt you – but do I take it that that is -- I think I'm hearing that  
6 that is separate from an investigation which may or may not follow?

7 **A.** That's totally separate from an investigation, totally. There may never be an investigation,  
8 but the most important thing is the attempt to heal or bring relief to the victim.

9 **Q.** Thank you. Sorry to interrupt you Ms McKechnie.

10 **QUESTIONING BY MS McKECHNIE CONTINUED:** I was just going to ask a question  
11 about that actually, Madam Chair. Picking up on what Chair Shaw asked you, Tom, you  
12 did give evidence before about your view it was important for the bishop or the  
13 congregational leader to contact the victim or the survivor. Do you accept in some cases  
14 that might be very unwelcome by the survivor?

15 **A.** I know it would be, I know it would be.

16 **Q.** So why do you recommend it?

17 **A.** Because at least you make the effort and, in some instance, if it's successful and you're able  
18 to get some approach, you know some rapport with the person, the person may want to see  
19 the bishop just to scream and yell at them. Well. that's important as well. But at least the  
20 effort is made, and it's seen by the community, that the first thing the bishop did, he didn't  
21 call his lawyer right away, he called the victim and went out to see the victim. Now, you're  
22 going to have a number of instances, and I know this from my own experience, of anger, of  
23 fury because this is, if it's something that was recent, if it's a case that happened many years  
24 ago, the scars and the pain are generally still there. So, I think if they — that's the chance  
25 you have to take, the chance the bishop has to take. But it's certainly a better way to do it  
26 than just looking at it administratively and saying I'm going to pass this on to one of my  
27 subordinates here and they'll take care of it and we'll put it into the administrative — put it  
28 into the administrative process and let that work its way through. No, no, not at all. This is  
29 a human being that's been harmed grievously so at least try to go and do something.

30 **Q.** I'll just ask a couple of questions about timing there, Tom. I realise you're not familiar with  
31 the New Zealand Catholic Church's response, so what happens in many cases here where  
32 there's been a disclosure is if the survivor wishes it, they meet with the bishop or the  
33 congregational leader and an apology is almost always given in person. But that is  
34 somewhat later down the path at the request of the survivor, rather than this first stage

1 which I think you are encouraging. So, is your recommendation that it be done very early,  
2 because I think my clients would be concerned they were going to re-traumatise survivors if  
3 they made that approach un— if it wasn't sought by the survivor?

4 A. Well, you obviously have to get the survivor's agreement that I'm going to come over to  
5 your home and I'd like to chat for a while because I know something has happened, that's  
6 the way tyou do it. But what I'm trying to get through is this is primarily a human problem,  
7 not an administrative problem. And that if all — if the only approach we do is look at the  
8 rules and regulations which are laid out and think those are carved in stone and signed off  
9 by God the Father, that's not the case. At least —

10 Q. So, the thrust of your concern, to summarise, is that you think it's very important for there  
11 to be a personal connection between the bishop or the congregational leader and the victim  
12 if that is something the victim would like?

13 A. Yes, I do.

14 Q. Mr Mount asked you a couple of questions about an independent organisation or an  
15 independent body to respond to survivors. How would you see that independent body  
16 managing that personal connection with the church that you think is so important? How  
17 could that be done?

18 A. That is another part of it, that's a whole different issue, I think the connection with the  
19 church, the initial connection if there's going to be one, between the leader of the church,  
20 the Catholics are taught that the bishops are supposed to be their spiritual father and one of  
21 the complaints I've heard constantly is that "When I did meet the bishop, all he wanted to  
22 do was talk business, so to speak, about the settlement and things of that nature and I had to  
23 make an appointment and his lawyer was sitting there in the room with me." That's what  
24 infuriates victims.

25 Now, I have, as I said, 36 years of experience of this, so I think what I'm getting at  
26 is that this is that separate commission, committee, whatever you want to call it, that works  
27 independently of the institutional churches but would have to work hand in hand with them  
28 I would say. But not populated by the bishop, not directed or run by the bishop, so they can  
29 be completely independent and have a less constrained — they wouldn't have to be worried  
30 about image and that kind of thing, that's different than the initial pastoral contact by the  
31 bishop. His only concern in that regard should be this person, how are they doing, not how  
32 they're going to be next week, not whether they're going to sue me or want money, how are  
33 they doing today because they just disclosed some horrendous thing that's happened to  
34 them. If they don't want to see me I won't go, but they may, and they may well, and you

1 would be surprised how many would welcome that.

2 **Q.** I think we have many instances of that being sought and responded to in New Zealand,  
3 Tom. Another one of these tensions that I wanted to explore with you. In your evidence  
4 earlier, you were quite critical of the phrase you used: don't send them a form, don't rely on  
5 a process. Now, one of the things that has been explored in questions with other people is  
6 how survivors know about consistency, how do they know what might happen if they  
7 approach the church? So, given your concerns about not being too process-driven, how  
8 would you balance consistency and information for survivors on the one hand, and there  
9 not being what you refer to as about forms and processes, what would you recommend?

10 **A.** I think that was misunderstood. I don't write off at all forms and processes, I know they are  
11 necessary, they're necessary in any organisation of whatever size, and they're especially  
12 necessary in a situation like this so that you simply don't go off the rails and so that there  
13 are some checks and balances. What I said, and I'll say it again clearly, is that this entire  
14 issue of responding to victims of sexual abuse should not be totally driven by an  
15 administrative — a set of administrative processes and that everything follows along that  
16 schedule. There has to be something in addition to that, and that has to be the pastoral  
17 dimension that's concerned primarily about the person. Now, I can distinctly recall when I  
18 was in canon law school a long time ago, one of the revered professors said you know, the  
19 law can only go so far, but pastoral care goes beyond the law and we have to understand  
20 that and be able to go in that direction and find out how to do it because there are no set  
21 rules for that.

22 **Q.** What would you consider to be pastoral best practice in this context, Tom, what would you  
23 recommend a church authority does as a pastoral response?

24 **A.** I just said, the first thing you do is start off on the right foot and see if the victim wants to  
25 speak with you, they may not, they may be very raw, they may be angry, they may not want  
26 to do it, play it by ear and see how it's going to go as we go down the path. At the same  
27 time, if it's necessary to investigate the accusation and the accused is still alive, that's  
28 another process that has to be taken care of. But don't put the cart before the horse. Keep  
29 in mind the most important person in this equation is the victim and if the victim is furious  
30 with the Archbishop when he knocks on his door, you don't write the victim off, you  
31 understand why that fury is there. And then you make another approach at some point, or  
32 have someone else make an approach that the victim wants to listen to, somehow that report  
33 got to the church that this priest did something to that victim, there's a reason that report got  
34 there. So that has to be taken into consideration.

1 **Q.** You've touched in that answer, Tom, on those two processes: a pastoral response and an  
2 investigative response. How does the church best balance those, because we've heard quite  
3 a lot of evidence from survivors that investigations are difficult for survivors and are  
4 traumatic? So, how would you recommend the church balances a survivor-led approach  
5 with the need to investigate and find out what has happened?

6 **A.** I would say that the best thing there is find out what is the best way to involve the victims  
7 in that investigation. If it's going to be questioning and interrogation, find out when that  
8 should take place and how it should take place and who should do it. We all know,  
9 anybody who's been involved in the law in any manner, way, shape or form, the traumatic  
10 experiences of women who have been raped, what they're put through when the  
11 investigation starts and what they're [inaudible] put through in court. There's a lot of  
12 similarities between what victims have been put through and experienced and that dynamic  
13 itself right there. That has to be taken into consideration.

14 It has to be, you know, I think much more compassionate, much more human, but  
15 get away from the need to, you know, set a bunch of criteria down for this, because you  
16 can't, they're going to be different, people are different, victims are different. Some may be  
17 totally cooperative and not too traumatised, may have gone through therapy, a lot of healing  
18 already. Some may be very raw and not ready for this call. You can't put them all in the  
19 same pigeonhole. Am I speaking too fast?

20 **CHAIR:** Just a little.

21 **QUESTIONING BY MS McKECHNIE CONTINUED:**

22 **Q.** She's smiling, Tom, but she does look like she might appreciate you slowing down.

23 **A.** I will —

24 **Q.** I only have two more areas I'd like to ask questions about.

25 **A.** Go ahead.

26 **Q.** The first one is about that variety of survivor in terms of what they're looking for from the  
27 Church and what they want from a process. So, from your experience, are you able to  
28 describe the different kinds of things that people you have worked with are seeking from  
29 the Church?

30 **A.** Yes, I am. The first thing I think, and I'm not sure that it's fair to even try to prioritise this,  
31 but I can say one of the things I've heard very often is acknowledgment that this really  
32 happened. "Don't tell me it's my imagination, don't tell me he didn't intend to do this, don't  
33 tell me he was tired or frustrated and that's why he raped me", forget that, an  
34 acknowledgment that something really happened.

1           The second thing that, or the other — another thing that many victims want is they  
2 want an assurance that this will not happen to anyone else, that this will not — that this  
3 cleric or brother or sister won't do this to anyone else and you're in the leadership position  
4 so it's their responsibility.

5           The last thing, and I have not even — I can't tell you, I have to tell you that I, I  
6 don't recall victims saying they want money.

7 **Q.** In your experience with assisting survivors through this process, is it a fair observation,  
8 because it's certainly an observation that is going to be made in evidence for the Church  
9 here, that sometimes what people want changes across that journey for themselves, they  
10 may want something from the church at the beginning and then as they travel along their  
11 journey they may want something else or may change their minds. Have you experienced  
12 that with survivors you've helped?

13 **A.** Oh certainly, yeah, I mean a lot of them want the — they want the priest's head on the  
14 plate, they want the bishop's head on a plate, and they want anybody else wearing a black  
15 suit lined up against the wall. That's generally a raw response, but yeah — if there's healing  
16 going on, any type of healing in the process, the needs, the wants, the perceptions will  
17 change over time. But I've also encountered a number of victims who — that initial  
18 damage and the response that happened from the first time is still there, it's still painful, it's  
19 still raw, it's still raw.

20 **Q.** Given that there is that kind of change with some people and not necessarily with others,  
21 how would you recommend the Church responds to that?

22 **A.** How do you mean?

23 **Q.** Well, the Church is walking on this redress journey with a survivor, how is it appropriate  
24 for the Church to find out and to respond to those changes from what the survivor is  
25 wanting?

26 **A.** Well you have to talk to the survivor and that's where you get the information about where  
27 they've been and where they're going and what's been happening. That's the whole purpose  
28 [inaudible]. You don't ask them to bring in a diary of their feelings every day from the day  
29 they were raped until last week, but you have to ask them to talk about their journey, where  
30 have you been, what's it been like.

31           I've done this, and I've had to be very careful because sometimes going back the  
32 memories will trigger a very traumatic response, because a lot of these people, as you  
33 know, suffer very seriously from a very unique kind of PTSD, it's what a lot of the  
34 psychiatrists are referring to. And I mean I would never do this with a survivor unless I first

1 spoke with a mental health professional and said "Look, you know, what do you think the  
2 best route would be with so and so, given what you know about the person?"

3 **Q.** The last couple of questions I'd like to ask you, Tom, were about comments you made in  
4 your evidence. When you've been helping people and you've found that sometimes there's  
5 transference from the survivor to you, I think you used the phrase "punching bag", and that  
6 you acknowledged that as part of helping them sometimes they get angry with you?

7 **A.** That's right.

8 **Q.** Now that's a process, Tom, that the Church sees within its redress processes, people who  
9 are trying to help, sometimes survivors get angry with them as part of that process. Have  
10 you got any advice from your experience about how to manage that, how to respond to  
11 those emotional complexities?

12 **A.** My advice would be that people that are involved in that situation where you think —  
13 where there's a remote possibility of transference, that you don't want that to end up in  
14 counter-transference which means you're a survivor and you're jumping all over me and  
15 then I get in a fight with you. So now I'm mad at you, you're mad at me, that's  
16 counter-transference. I can respond to that because of my training, I'm trained as an  
17 addictions therapist where we deal with that issue a lot, that's why. But I think anyone, let's  
18 say you were going to do it, I would say I would spend some time with a mental health  
19 professional who can help you understand what's going on behind that person, the big  
20 danger is taking it personally.

21 I had to be very aware of that when it's happened to me. And I've had to talk —  
22 generally what I've done is speak with, if I had a clinical supervisor at the time, I'd speak to  
23 him or her or my AA sponsor or something of that nature, just to make sure that I wasn't  
24 going to — the most dangerous thing is that I make a mistake in dealing with that person.  
25 So, the bottom line is that we learn, all therapists I think know this, do no harm. So you  
26 don't want to do any harm, and if they are angry you have to absorb that, it's very difficult,  
27 but I've learned that that's important that I do that, that I learn to absorb and it's worked out  
28 positively in many, many instances where, after a while, I've developed a rapport after the  
29 anger's been taken care of, or after it's been expressed and cooled down.

30 These people are angry not so much at me, [inaudible] they're angry at the Church,  
31 they're angry at priests, they're just angry and sometimes it's like asking "What are you  
32 angry about?" That's not the right question. [Inaudible] but I think it's just listening, trying  
33 to stay calm, and I'm sure, as you said, I'm sure it's more than a few instances where it  
34 shows up [inaudible] and there's no rule book. I was fortunate to have experience in

1 dealing with transference and counter-transference, because it happened in counselling  
2 relationships. But that's what I would advise, people who are going to be working with  
3 victims that they get some kind of training of that nature.

4 **Q.** Thank you, Tom, thank you for sharing your American experience with us and those  
5 observations. I'll hand you back to Mr Mount now.

6 **A.** Thank you, good luck.

7 **Q.** Thank you.

8 **CHAIR:** Anything from you Mr Mount?

9 **MR MOUNT:** No thank you very much, Madam Chair.

10 **CHAIR:** So, it remains for us — do you have any questions?

11 **COMMISSIONER ALOFIVAE:** Good evening Tom. Can you see me?

12 **A.** I can't see you, I'm sorry.

13 **CHAIR:** She will arrive I'm sure.

14 **A.** I can see you, I can't pronounce your name Sandra but I can see you.

15 **COMMISSIONER ALOFIVAE:** Thank you very much. Thank you very much for your  
16 evidence. It's really a point of reflection and maybe clarification just so that I've got it right  
17 in my mind. I note from your evidence that the Catholic Church in terms of canon law,  
18 they're not shy on speaking openly and having rules and regulations around sexual abuse of  
19 a minor and how it should in actual fact be dealt with, correct?

20 **A.** Yes, I mean it's pretty clearly laid out.

21 **Q.** Yes, so they're very categorical which is quite different from some of our other faith  
22 institutions that we've heard from. And repeatedly, you keep repeating and amending your  
23 canon law, you keep revising them with the intention that actually globally all of your  
24 Catholic parishes, or where the faith is, that they would be applying these canon laws with  
25 some consistency. Is that a fair assumption?

26 **A.** Well, the assumption is like in any legal system, you want everybody to obey the law  
27 consistently and if you're not sure what it means you go to the appropriate authorities to  
28 help you apply it. Unfortunately, that's not the way it works anywhere. Now the initial  
29 comments you made, I don't think there is another denomination that I know of that has a  
30 complex legal system similar to the Roman Catholic Church and possibly that's because  
31 ours reaches — canon law system as a system is the oldest, continuously functioning legal  
32 system in the world, it's considered among legal historians and experts as an actual legal  
33 system. [Inaudible] I don't want to get into that because I could go on all night.

34 **Q.** Thank you, I guess the end point that I'm trying to get to is when we contextualise it to our

1 local New Zealand situation and circumstances, there's still a base — there are still base  
2 documents in terms of the canon law and you refer to a number of them like our 2010  
3 norms that would still be applicable to us here in New Zealand today. Is that a fair  
4 assumption to make?

5 A. Yes, sure, the canon, the code of canon law is applicable to the entire Church and the canon  
6 applies to New Zealand and if the New Zealand Bishops Conference wanted to set up  
7 special laws for New Zealand only based on your needs, especially considering the native  
8 peoples that you have, that could be done. We've done that in the United States in 2002.  
9 The bishops got together and they drew up what we call commonly the Dallas Charter that  
10 has a set of norms with it. They passed it, it went to Rome and was approved and that  
11 became what we call in canon law particular law, which is law for one area or one group of  
12 people or one specific issue.

13 Q. Thank you, so we are able to deviate if we wanted to in terms of the Catholic populations  
14 here?

15 A. Yes, you could, and probably —

16 Q. We probably, sorry, I'll let you finish that.

17 A. Well I think that probably a lot of ecclesiastical entities are free to go that route, but it  
18 probably would be to the benefit of everybody in the country if you had your own set of  
19 rules that would be a companion to the code itself. You've got a small country, you've got  
20 six dioceses, I don't mean to [inaudible] it's one of those beautiful places I was ever at in  
21 my life, New Zealand, but it's small country compared to the USA.

22 Q. Thank you, Tom, that was — you've helped me very much, thank you.

23 **CHAIR:** So finally, from me, Tom, just a question that expands what you've told us into the areas  
24 that we are also having to navigate as a Commission, because our Commission is not  
25 limited just to sexual abuse, we are looking into abuse of all forms, including neglect,  
26 which we interpret to be neglect which leads to harm or damage. We have heard, and I  
27 don't know if you know this, but the Commissioners meet privately and regularly with  
28 individual survivors to take their accounts in a confidential way and we are listening to  
29 these all the time. And we are hearing and have heard of stories and accounts of children in  
30 the care, not just of the Catholic Church but certainly including them, where they might not  
31 have been sexually abused but they may well have been very severely physically abused.  
32 I'm not talking about normal discipline here, I'm talking about use of weapons, vicious  
33 attacks leading to injuries etcetera.

34 We've also heard of the lack of affection, so children placed in orphanages which

1 are cold, where children don't learn any attachment whatsoever. I don't know if you've  
2 given any thought to this, but I'm just wondering whether what you have said today about  
3 sexual abuse could apply to those matters as well, severe abuse and indeed harmful neglect.

4 A. The answer to that ma'am is yes. I have had experience with what you're speaking about  
5 with Catholic institutions run by religious orders of women. I just finished working a case  
6 in Australia, in Victoria, where the client within the case had been in the care of the Sisters  
7 of Nazareth and the Christian Brothers, and he said he'd also been in the care of the State of  
8 Victoria in prison and he said he'd take that any day over what was dished out to him in  
9 those two institutions.

10 So I've had to comment on this, work in this area, in the United States, in Canada,  
11 in Quebec and in Australia and it is equally important, especially the physical harm that is  
12 done to some of these children, that is beyond comprehension, it's just — I can't even  
13 describe it and I've seen it in several places, and it's criminal, it's worse than criminal.

14 Q. And it follows from that I think that the very important evidence you've given today about  
15 spiritual abuse could equally apply to, or spiritual damage, could apply to abuse arising out  
16 of non-sexual but actually really bad criminal physical abuse.

17 A. Absolutely. And it's not just it could, it does, it does ma'am, that much I do know from the  
18 experience that I've had. I was not asked to comment in my — I certainly could have done  
19 it, had I been suggested to get into that dimension, yes. The worst I've seen of that has been  
20 in Ireland in the industrial homes run by the Christian Brothers which is — and I worked at  
21 one time as a prison chaplain and I'd go there certainly before I would put myself in one of  
22 these places.

23 Q. Yes, very sad. Just finally, I just want to acknowledge your evidence, Tom, it's been a  
24 privilege to hear from you. What you have done, as I've said before, the Commissioners  
25 have spoken to several hundred now survivors as individuals, and what you have done for  
26 us today is provide us with an intellectual framework around the stories, accounts and  
27 experiences we have heard. And it is tragic, but very real that the experiences that you've  
28 had of people in the United States are the same here. And that's the fear of reporting, the  
29 sense of being somehow beholden to the church, not to report, the secrecy, and above all the  
30 extraordinary damage and the impacts on that work.

31 But your talk of spiritual damage has been very important for us to hear and to  
32 recognise as something that, focusing on redress, we have to look at. So, I want to thank  
33 you very much. You should know, and Mr Mount pointed to this before, you can't see the  
34 hearing room, but you've got a full house, and I'm sure many people watching and on

1 behalf of all of those people can we thank you for your generous time. I appreciate that you  
 2 have given this time willingly and we really appreciate that. So, thank you so much from  
 3 all of the Commissioners.

4 A. I want to say thank you for inviting me to give my testimony, but much more important is I  
 5 would like to thank the Commission and those involved for what you're doing and trying to  
 6 do for the victims, those are the people that are most important. And I think anything that  
 7 offers an increase of healing, of peace, of peace of mind, of peace of soul is very important  
 8 and something of this nature is certainly very, very important. So, I, as one who's been  
 9 involved with this for a long time, I'm grateful to you for what you're doing. And I wish  
 10 you all, everyone in that room, the very best of luck in this historic moment that you're  
 11 involved in.

12 Q. Many thank yous and I wish you farewell.

13 A. Thank you very much.

14 CHAIR: I think we'll take the adjournment at this stage.

15 **Adjournment from 3.02 pm to 3.17 pm**

16 CHAIR: Yes, Ms McKechnie.

17 MS McKECHNIE: Good afternoon, Chair. The Commission have asked that Brother Horide for  
 18 the Marist Brothers gives evidence now, ma'am. He's joined in the witness box by Brother  
 19 John Hazelman who is the District Leader of the Marist Brothers. Brother Hazelman is  
 20 going to briefly mihi to acknowledge the Commission. As I indicated in my opening  
 21 yesterday, he had intended to make an apology but we have subsequently had an indication  
 22 that you would prefer that he not do that now, so accordingly he will mihi both in English  
 23 and Samoan and invite survivors to come forward to the Commission, again in English and  
 24 in Samoan, and then Brother Peter will give his evidence.

25 CHAIR: Thank you. So good afternoon Brother Horide, I believe you want to be called Peter; is  
 26 that correct?

27 A. Yes.

28 Q. Mr Hazelman, thank you for attending in support of Brother Horide.

29 **PETER HAMILTON HORIDE (Affirmed)**

30 MS McKECHNIE: Brother John, would you like to begin with the Chair's approval.

31 CHAIR: Yes, you were going to do a greeting.

32 MR HAZELMAN: Ma le agaga fa'aaloalo lava, oute fa'atulou ma fa'apa'i mālu atu i le pa'ia  
 33 mamalu o ē uma na a'afia ma e o lo'o soifua mai sa a'afia sauāga. Faatulou atu fo'i I tagatā  
 34 nu'u, le mālo, fa'apea suimamalu i le pa'ia o le komisi su'esu'e o Aotearoa Niu Sila i ona