

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY
MARYLANDS SCHOOL**

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)
Ali'imua Sandra Alofivae

Counsel: Ms Katherine Anderson, Mr Simon Mount QC, Ms Kerry Beaton QC, Ms Jane Glover, Ms Anne Toohey, Ms Kima Tuiali'i, Ms Julia Spelman, Mr Winston McCarthy, Ms Echo Haronga, Mr Michael Thomas and Ms Kathy Basire for the Royal Commission
Ms Rachael Schmidt-McCleave, Ms Julia White and Mr Max Clarke-Parker for the Crown
Ms Sonja Cooper, Ms Amanda Hill, Mr Sam Benton, Ms Alana Thomas and Mr Sam Wimsett as other counsel attending

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

Date: 9 February 2022

TRANSCRIPT OF PROCEEDINGS

1 **OPENING SUBMISSIONS BY MR CLEARWATER**

2 **MR CLEARWATER:** Kei te mihi ki te atua, tēnā koe. Kei te mihi ki te whareniui e tū nei, tēnā
3 koe. Kei te mihi e Papatūānuku tēnā koe. Kei te mihi rau rangatira mā o mana whenua ki
4 Tāmaki Makaurau. I want to acknowledge the spirit that brings us together, I want to
5 acknowledge this amazing building, I want to acknowledge the land that we're on and also
6 the indigenous people of our land.

7 Ko Aoraki tōku maunga, ko Waimakariri tōku awa, ko Whaling tōku waka, ko
8 Pakeha me Cherokee ku te iwi, ko Kingsley Clearwater toku papa ki Tamaki Makaurau, ko
9 Eileen Connolly toku mama ki Otepoti, ko Ken ahau, no Otautahi ahau, kei Waikuku au e
10 noho ana, tena koe, tena koutou, tena koutou, tena koutou katoa. I want to acknowledge
11 those shoulders that I stand on and what gives me the strength to be here today and all the
12 survivors, kia ora.

13 **CHAIR:** Kia ora.

14 **MR CLEARWATER:** I'd like to thank the Prime Minister, Jacinda Ardern, and this Labour
15 Government for having the courage to have the Royal Commission, an inquiry that no other
16 Government would do. Helen Clark and her Government refused my request in 2004 as not
17 being necessary. John Key's Government in 2009 also refused my request. It was not
18 necessary. We knew differently. And now Aotearoa New Zealand will know differently.

19 I'd like to make special mention to the amazing work the Police, above and beyond,
20 in getting McGrath and Moloney to be held accountable for the heinous crimes they
21 committed at Marylands School for disadvantaged boys.

22 I'd like to thank the Royal Commission for allowing me to speak here today on the
23 work and support I have been able to do with male victim survivors of sexual trauma,
24 especially Marylands School, since 1996.

25 I'd like to acknowledge and thank all the courageous men from Marylands, victims
26 of these heinous crimes who have trusted me enough to share their lives with me. I have
27 carried these men mentally, spiritually and socially through their trauma and its lifelong
28 impact on them, their families, their parents and their caregivers. And I'm honoured to be a
29 voice for some of those men.

30 According to the Australia Royal Commission they found The Order had the highest
31 proportion of perpetrators of any institution in Australia, as we've heard.

32 I'm also here for a voice of those who are unable to speak, those who, for whatever
33 reason, can't come forward and relive their trauma. For those with an intellectual disability,
34 who would have been chewed up and spat out by our justice system. In the words of one of

1 those survivors, "they did horrible things to us."

2 I'm here for those who are unable to live with the shame, the guilt, the fear of the
3 trauma they suffered and have killed themselves. Sorry. How many times have we heard
4 sorry from the Vatican down? I can tell you, they are sorry. Sorry they have been caught
5 out around the world and especially now, here in Aotearoa New Zealand.

6 In the words of Tom Doyle, the American priest who spoke to this Commission, an
7 apology from New Zealand's Cardinal Dew, a day late, a dollar short. I'm sure that many
8 victims who should be the one people of concern can see right through it.

9 In 1977 the office of the Provincial Brother Brian O'Donnell received a letter
10 concerning brother, Rodger Moloney and Bernard McGrath. St John of God chose to
11 ignore it.

12 In September 1977, despite knowledge of this offending, McGrath was transferred
13 to Australia and sent to Kendall Grange, another school for disadvantaged boys. A month
14 later Moloney was transferred to Rome where he worked as a pharmacist in the Vatican.
15 St John of God, like other Catholic orders, chose to spend millions of dollars to shut the
16 victims and their families up, forcing victims to sign confidential legal papers, not to
17 protect the victims, but to protect the church, to help the continuation of the coverup in the
18 hope that it would all go away, and the institutions would keep their reputations without
19 one thought for those affected by the heinous crimes.

20 In the words of former St John of God Brother McGrath to ABS Australia News in
21 2020, the St John of God and the Catholic Church have covered up decades of his
22 offending at schools in Australia and New Zealand.

23 St John of God mission statement. "Our mission is to continue the healing mission
24 of Jesus. Our vision is to be recognised for care that provides healing, hope and greater
25 sense of dignity, especially to those in need."

26 Hospitality, compassion, respect, justice, excellence. There's two words that fit
27 what we know has happened at Marylands School for disadvantaged boys and it is none of
28 the above. It is deceitful and evil. To not care about the sexual violence and torture of
29 innocent disadvantaged boys when you preach about care from the pulpit is evil. And to
30 those who have chosen to help cover it up are complicit in this evil.

31 There is one man, a New Zealander, who had the courage to meet with, listen to and
32 apologise to the victim survivors and tried his best to help those affected by these evil
33 crimes, and that was Brother Peter Burke with the support of psychologist Michelle
34 Mulvihill. Research tells us, if and when a male victim survivor of sexual trauma comes

1 forward it can take up to 24 years or more. And even then, they may not be believed.

2 Imagine how difficult that must be if the offender is a Catholic brother and the
3 whole world doesn't believe you. Then you have to go through revisiting the sexual trauma
4 continually to those who are responsible, and you have to prove it happened over and over
5 again, especially when those responsible knew. Perpetrators protected by the system that is
6 supposed to protect and care for our most vulnerable, the Order of St John of God who have
7 been given so much power, have no care or concern for the damage they have done and
8 don't understand what it's like to carry the trauma of sexual violence and can only care for
9 their own reputation. Sorry.

10 I've been privileged to sit with many men who have shared the most horrific trauma
11 and the impact it has had on them with me, in the hope that they may have a normal life.
12 Unfortunately, their lives will never be what the ordinary person would see as normal. The
13 trauma has controlled their lives. They are captured in their trauma. Not only by those
14 who committed the atrocities, but by an organisation so powerful it has been supported by
15 many Government systems that they, the victim survivors, will feel they are not worthy.

16 I can tell you here and now they are worthy. For each and every survivor to carry
17 the trauma where you are not believed, to be imprisoned in your own mind, and all this
18 supported by a system that has not and would not listen to your voice tells me how
19 powerful and special each and every victim is to endure this and survive.

20 Using skills that you had to learn for yourself as hurt children, many were denied
21 their natural right to education, to learn healthy living skills, to be cared for and, most
22 importantly, to be loved. As the Australian Royal Commission said, the children were
23 neglected with no affection, no nurturing and with the lack of love. A survivor was
24 challenged by his mother who said, "You shouldn't keep living in the past", he says "I don't,
25 the past lives in me."

26 Many of the men I have worked with have been in and out of the system since the
27 sexual abuse and violence they suffered at Marylands School, boys' homes, Lake Alice,
28 other mental health facilities, prison, living on the streets, not being employable, especially
29 if they have spent time in prison. And, as I mentioned earlier, those unable to live with the
30 shame, the fear, the guilt, the disgust have killed themselves.

31 I don't see hospitality here, I don't see respect, I don't see excellence and I don't see
32 justice and I certainly don't see compassion. We have to look at whereabouts in their lives
33 they could have received the proper help they needed, when you think of the many people
34 who saw these many over their lifetimes, the church, many Government departments, the

1 social workers, the teachers, the Police, the psychologists, the psychiatrists, the counsellors,
2 doctors, Corrections, Probation, the courts, the list unfortunately goes on and on.

3 Many people in positions of power knew and did nothing. The Vatican knew and
4 did nothing. The hierarchy in the Catholic Church knew and did nothing. St John of God
5 knew and did nothing. Instead of helping those affected, these people protected and
6 continue to protect themselves and the institution. You failed in your duty of care, and this
7 is evil at its best.

8 The boys, who are now men, deserved better. The system have failed them in the
9 past. Victim survivors now have a voice; listen to that voice. As the old saying goes, it
10 takes a village to raise a child. Survivors of sexual violence at the hands of St John of God
11 are now asking for the villages of Aotearoa New Zealand to stand up. If you continue to
12 ignore the voices, you the village are also complicit in these horrendous atrocities against
13 innocent disadvantaged boys.

14 Rape, sodomy, molestation, indecent assault, sexual assault, masturbation, oral sex,
15 committed by an adult wearing a collar representing what mere mortals are told they are the
16 closest thing to God on planet earth.

17 Imagine you are one of these vulnerable boys and this adult representing God forces
18 you to pull his foreskin backwards and forwards until he ejaculates, puts his erect adult
19 penis in your child anus and ejaculates, he puts his erect adult penis in your child's mouth,
20 and he ejaculates into your mouth. All the while a cross with Jesus is above the bed in
21 which he commits these heinous crimes in the name of God.

22 This is betrayal, this is sick, and this is evil. I don't see excellence, I don't see
23 justice, I don't see respect, I don't see hospitality and I certainly don't see compassion.
24 St John of God, you have failed in your vision.

25 There was no recognised care, you did not provide healing, you did not give them
26 hope, and you did not give them greater sense of dignity, especially to those in need. These
27 are not sins where you can ask for forgiveness and a couple of hail Marys, these are heinous
28 crimes against disadvantaged boys. Sorry.

29 Anybody who continues to support the molesters, the soul stealers, the child rapists,
30 shame on you. As Nelson Mandela said, any nation that does not care for and protect all its
31 children does not deserve to be called a nation. This Royal Commission could be their only
32 hope and the recommendations made to Government must be listened to. Don't fail them.
33 Tuia i runga, tuia i raro, tuia i roto, tuia ki te rangi. Ka rongo te pō, ka rongo te ao, haumi e,
34 hui e, tāiki e. Kia ora.

1 **CHAIR:** Kia ora and thank you very much Mr Clearwater. Now I think we do take a break.

2 **MS ANDERSON:** Yes, Madam Chair. So may I suggest that we might need to take just slightly
3 over until quarter past so come back just after quarter past.

4 **CHAIR:** Let's say 20 past, come back at 20 past. So, we'll adjourn until 20 past 12, thank you
5 very much.

6 **Adjournment from 12.03 pm 12.18 pm**

7 **CHAIR:** Kia ora.

8 **MR KU:** Kia ora.

9 **CHAIR:** Kia ora Ms Thomas.

10 **MS THOMAS:** Tēnā koe. He tō wai noa i ngā mihi kua whakatakotohia i te ata nei, ā, nōku te
11 waimarie ki te āwhina i a Donald Ku i te rā nei. Me tāku mihi ki ngā tāngata me ngā
12 mōrehu katoa e mātakitaki mai nā ki runga i te ipurangi, me tō mātou mōhio, ehara i te mea
13 nā koutou te hē kāore e tai ki roto i tēnei whare nei. Nō reira, e mihi ana ki a rātou katoa,
14 ngā mōrehu i tae atu ki ngā whare e pēnei nei. Me tāku mihi ki a Donald, tēnā koe, nau mai
15 hoki mai ki roto i tō tātou whare.

16 I just wanted to start, Madam Chair, with a mihi to Donald, knowing that it is his
17 second time with us, and it was my honour to be able to help Donald with the Lake Alice
18 investigation, and now we're here once again. And I know it's not easy korero for you to
19 give, Donald, and the fact that you've come back again, I runga anō i tō whakapono,
20 knowing our conversation that you think there is value in this Commission, that you are a
21 survivor giving your korero, but also your korero for all those pēpi that weren't able to be
22 here as well. So, E mihi ana ki a koe, and Madam Chair if we just get started right into it.

23 **CHAIR:** Yes.

24 **MS THOMAS:** Donald does want to start in his own words and his own introduction.

25 **CHAIR:** Totally, can I just get the quick affirmation. Te mea tuatahi, tēnei te mihi ki a koe, nau
26 mai hoki mai ki te Kōmihana. Thank you for coming back, Donald, you did a great job last
27 time and I know it was hard, and I salute your courage in coming back again to us. And
28 we're very much looking forward to hearing what you have to say this time around.