

**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

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TRANSCRIPT OF PROCEEDINGS

1 So good morning, Ms McKechnie.

2 **MS McKECHNIE:** Good morning, ma'am, Commissioner. The first witness this morning is
3 Archbishop Paul.

4 **CHAIR:** Yes. Speak into the microphone, Ms McKechnie –

5 **MS McKECHNIE:** Sorry to repeat that for those listening on the livestream who may not have
6 heard me, Archbishop Paul Martin will be giving evidence now.

7 **CHAIR:** Good morning, Archbishop.

8 A. Good morning.

9 **Q.** How would you like me to address you?

10 A. My mother calls me Paul, so Paul will be fine.

11 **PAUL GERARD MARTIN (Affirmed)**

12 **QUESTIONING BY MS McKECHNIE:** Thank you, Paul. You should have a witness statement
13 with you, Paul, dated 24 September 2021. Do you have a copy of that?

14 A. I do.

15 **MS McKECHNIE:** Commissioners, Paul was asked to give evidence today and his evidence was
16 drafted in response to a specific set of questions. A number of those questions were about
17 the evidence of Monsignor Daly who had already filed evidence, so there is a brief of
18 evidence for those listening which will also be published, which will be referred to
19 potentially in evidence. That's dated in July 2021 and covers the Canon Law issues that
20 underlie some of these matters.

21 **CHAIR:** Yes, thank you for that, and that extra brief of evidence comes from Monsignor Daly.

22 **MS McKECHNIE:** Yes, Commissioner, and he's a senior canon lawyer of the church –

23 **CHAIR:** That's right, thank you.

24 **QUESTIONING BY MS McKECHNIE CONTINUED:** Paul, we have approximately 45
25 minutes to talk through some of the matters in your evidence and some of the other matters
26 relevant in your experience.

27 I'd like to start, please, by asking you to introduce yourself to the Commissioners
28 and those listening online, your background in the church and how you came to be sitting in
29 the witness box this morning.

30 A. Sure. Tēnā koutou katoa. I was born in Hastings in 1967, the eldest of five children.
31 I attended school there and at the end of my time at secondary school I felt the call to
32 become a priest and a priest of the Society of Mary, so what we would call in the church a
33 religious priest. I joined the religious order the Society of Mary, and predominantly because
34 I had been taught by Marist priests in Hastings and our parish was a Marist parish.

1 So I was really attracted to the vocation of being a teacher and a priest and so I went
2 to the seminary in Hawke's Bay, entered in 1985, and I was ordained a priest of the Society
3 of Mary in 1993, went to training college at the College of Education here in Auckland in
4 1994, and then began a teaching career for the next 20 years, of which I taught in a number
5 of colleges run by the Society of Mary.

6 My last role was as principal of St Patrick's College in Wellington. So, if you fly
7 into the airport you drive past St Pat's all the time.

8 I had six years as rector, the title was there, and then in 2013 I was elected to the
9 administration of the Society of Mary, which meant that I finished in school and went into
10 that role fulltime for two years. As part of that I was on the, what they – call it's – called the
11 Provincial Council and I was also the provincial bursar, so I was responsible for – the
12 oversight of the financial administration of the New Zealand province of the Society of
13 Mary.

14 At the end of 2015, I received a phone call from a Superior General of the Society
15 of Mary in Rome to say that they were looking for a new general bursar because the current
16 one had cancer and had to return to Australia, and so six weeks later I found myself living
17 in Rome at the general house of the Society of Mary.

18 So, I took up that role for what I thought was going to be a number of years, except
19 that in November of 2017, I received a phone call from the apostolic nuncio to say that the
20 Holy Father had appointed me the Bishop of Christchurch, which was not what I was
21 expecting in my life.

22 And so, I returned to New Zealand well – actually, I was in New Zealand on holiday
23 when this happened, so I went back to Rome, packed up, came back to New Zealand, and
24 took – up I – was ordained the Bishop on 3 March in 2018 –

25 So, I found myself in Christchurch, which is not my home area, obviously. I had
26 worked on two separate occasions in Christchurch, at St Bede's College for three years at
27 the end of 1999 to 2001, and then for two years in 2006 and 2007 as the Deputy Rector
28 there.

29 So I was getting sort of – settling down to being the Bishop of Christchurch and
30 then just before – fourth Sunday of advent, if you want to be precise – I received another
31 phone call in 2020 from the nuncio to say that I had been appointed the Coadjutor
32 Archbishop of Wellington, which was even more of a surprise than my first phone call from
33 the nuncio, which means – and that is my – I'm no longer the Bishop of Christchurch when

1 that happens, and so – that's my current role. But I'm also the apostolic administrator of the
2 Diocese of Christchurch –

3 So, until a new Bishop is appointed to Christchurch, I continue to have oversight
4 and running of the Diocese of Christchurch until that time.

5 The word coadjutor means that when Cardinal John retires, I will take over from
6 him as the Archbishop of Wellington, and also by extension what they call the Metropolitan
7 of New Zealand.

8 **Q.** So, the other more technical term you used then was apostolic administrator of the Diocese
9 of Christchurch. For lay people that would mean perhaps the caretaker Bishop or caretaker
10 administrator?

11 **A.** Yes, you can have, there – is a difference, there's a diocesan administrator, or there's an
12 apostolic one and an apostolic means it's appointed from Rome. Diocesan means if the
13 Bishop dies then the Council of Priests elect someone to run the diocese as a diocese
14 administrator. So, this is a Rome appointment.

15 **Q.** Paul, the Commissioners have heard evidence in previous hearings about a number of the
16 structures that you've talked about and the differences between diocese and congregations.
17 You are a little unusual in that you were a religious priest, and you are now a Bishop. So,
18 can you explain what the relationship is for you now between your congregation, the
19 Society of Mary, and your diocese?

20 **A.** Sure. There are two ways in the Catholic Church you can be a priest. You can go to a
21 Bishop and say, "I'd like to be a priest, will you take me on?" And he says, yes, trains you
22 and you live the rest of your life in that diocese, working, and that's called a diocesan priest.
23 Or, in my case, you go to a religious order and say, "I'd like to join the religious order", and
24 you do that, and also, "I'd like to become a priest".

25 So, just to be really confusing, in the Society of Mary you can join and not be
26 ordained, so you're a Brother of the Society of Mary, or you can be ordained and be a Priest
27 of the Society of Mary. That's what happened to me.

28 And that's why when I was asked to be a Bishop, that was in – New Zealand, that's
29 quite unusual. It's 100 years since a religious was asked to be diocesan, a Bishop of a
30 diocese. Takuiria Mariu was the Auxiliary Māori Bishop of Hamilton, but he didn't have his
31 own diocese, he was also a Member of the Society of Mary.

32 So, when that happens, when you are a religious you – belong to a religious order,
33 that's what is called a – religious you – take vows of poverty, chastity, and obedience; I
34 think we – heard Brother Timothy talk about that yesterday.

1 Once and – you take a vow your – vow of obedience is to the Superior General of
2 the Society of Mary. So, in terms of what's asked of you. When you become a Bishop you
3 no longer have a vow of poverty, so you are able to own things yourself and use them, and
4 you also no longer have a vow of obedience to the Superior General of the Society of Mary

5 –

6 So, the Society of Mary no longer has any authority over me, but I still belong to the
7 Society of Mary in the sense of that's my whānau, if you like, originally.

8 But now I am responsible, or I was responsible and belong to Christchurch, so that's
9 my first concern and care, and now it's Wellington and the priests and people of
10 Wellington.

11 So, it's a little bit schizophrenic, but not really. But that's where I am now, that's
12 where my focus, but obviously the Society of Mary is for 30 years I worked within that and
13 lived within that context.

14 So that's quite a formative experience on who I am, what I have done.

15 **Q.** Thank you, Paul. It's quite striking from your description of your career that you have been
16 moved and have moved around quite a lot as part of this process, and clearly haven't been
17 given a lot of warning about some of these changes. We've heard quite a lot of evidence
18 about this practice within congregations in particular. Can you explain why this happens to
19 men like yourself who are part of these congregations?

20 **A.** Sure. One of the things of belonging to a religious order is that you're not within a certain
21 area, so if you're a diocesan priest of Christchurch you'll work in the Christchurch area, and
22 when you are a religious – I belong to the New Zealand province of the Society of Mary, so
23 my first job teaching was in Whangarei, Pompallier College, I had four years there and at
24 the end of those four years we stopped staffing that school, so all the priests, there were
25 four of us, we left and I went down to St Bede's in Christchurch to work in that school,
26 knowing that in three years' time we were going to finish teaching there as well.

27 So, when I went there, I knew I was only going for three years, which was a little bit
28 unusual. Then I went to Hato Paora to the work there as a chaplain, so I wasn't teaching and
29 I have to say I really missed the dynamic I – was a teacher of English and religious
30 education, I have a BA in English from Victoria University, I really missed the cut and
31 thrust of the classroom.

32 So, after two years there, I went to St Pat's in Wellington and became the assistant
33 head of English there, which I did for two years, and then I applied for the Deputy Rector

1 rolled at St Bede's which I won, and I had two years of that, and then I applied for the
2 Rector's position at St Pat's in Wellington. So that's the context of those moves in my life.

3 As religious, part of it is going where the need is, and depending on the certainly –
4 within the school context, there were eight schools that the Society of Mary staffed and so
5 men would be moved according to we need an English teacher at St Pat's, Silverstream and
6 – who so – one would be moved. This was obviously – in latter years there were more lay
7 staff and so it was slightly different.

8 But, it's certainly not unusual to be moved around and depends a little bit on the
9 person and the skills and personality. And also, if you are in a religious community there's a
10 leader of the community, which in religious life is called the superior of the community,
11 and in the Society of Mary and in a number of religious orders, that is for a limited period
12 of time. So, it's three years, once renewable. So, after six years that would finish.

13 If you look at Marist schools, usually the principal of the school was also the
14 superior of the community, and so most of the time it was a six-year appointment and then
15 they were – they moved around. So that's quite – so if someone is the superior, you can
16 expect that would be six years, and then they would be moved.

17 These days, because there are fewer people, sometimes they'll stop being the
18 superior of the community and someone else will take up that role and the person may
19 remain in the community; just depends.

20 **Q.** Thank you, Paul. I want to turn to the events in Christchurch now and as you say in your
21 brief of evidence you have no direct knowledge of either Marylands or Hebron. What
22 engagement have you had with the St John of God Brothers Order?

23 **A.** I haven't really had any engagement, except that there are two Brothers who are in
24 retirement in GRO-C who I have met, that's really my only engagement with the St John of
25 God Brothers.

26 **Q.** Paul, you've been asked a number of Canon Law questions and to comment on Monsignor
27 Daly's advice in regards to Canon Law. Can you explain to Commissioners as a Bishop
28 what your engagement with Canon Law is and how it works for you as a practical matter?

29 **A.** Yes. Canon Law, if you've seen the Code of Canon Law, has a lot of – it has a number of
30 things that obviously we engage with according to when the need arises. I'm not a canon
31 lawyer, I haven't studied Canon Law and so generally I sort of constantly seek advice
32 around Canon Law from people such as Monsignor Brendan who is actually a priest of the
33 Christchurch diocese working in Auckland. So, he would – if I'm not sure about something

1 or – he will – I will ask him, or if he sees that there's something coming up that he thinks
2 I need to be aware of, he will contact me as well, which is very helpful.

3 **Q.** So, in the context of Marylands, Paul, a congregation running a special school, or an
4 orphanage, there are some historical documents which the Commission has which talk
5 about how that came about and Monsignor Daly's advice, which you agree with, is that that
6 is a proper work of The Order. Are you able to explain to the Commissioners, albeit in
7 more lay terms rather than Canon Law, what that means?

8 **A.** Sure. As I understand it, within a diocese, if a Bishop recognised that there was a particular
9 need in his diocese for some particular work, he would ask a religious order that he either
10 had a relationship with or who were already in the country, would they be willing to come
11 and take on that work in the diocese.

12 So that happened obviously in education, with a number of – a lot of the schools, in
13 fact all of the schools in the diocese in the earlier years were taken on by a religious order
14 who accepted to do that, and then they ran that work. The same is true of Marylands, that
15 the Bishop asked the Brothers to come and to run this establishment.

16 In doing that, as a work proper to The Order, that set up a relationship of really
17 handing over, and not in the sense of getting rid of, but entrusting to them the running of
18 that school or the – in this case, Marylands or if it was a hospital or whatever, and then The
19 Order, the expectation was that The Order oversaw and cared for that institution.

20 **Q.** Paul, what's the role of the charism in determining whether it's a work proper?

21 **A.** Different religious orders have different charisms. That's sort of the flavour of what their –
22 how they operate and what the spirituality, what the – how they see the living of the gospel
23 in light of their particular group, and then particular works that are linked to that. So, for
24 example in my own case, the Society of Mary was not founded to do any particular work, it
25 was to support the church where it was not already, so that's why they came from France
26 out to Aotearoa, Bishop Pompallier at the beginning, so it was to bring the gospel to Māori
27 people and then education of young people, some parishes, but not necessarily and then
28 other works as well. So, there were a variety of things.

29 But in the case of the St John of God Brothers, as Brother Timothy pointed out,
30 their particular charism was around working with young people with particular needs, and
31 hospitals and care in those areas.

32 **Q.** Paul, turning to the modern day, does the church, do you as a Bishop have congregations
33 doing proper work in your diocese of the sort for special schools and orphanages?

34 **A.** No, we don't.

1 **Q.** Approximately when did that type of work done by congregations diminish and cease,
2 Paul?

3 **A.** If we look at the nature of schools, as the number of religious men and women, brothers
4 and sisters, reduced, then those schools became run by lay people with oversight. They are
5 diocesan schools, so the Bishop is responsible for them. There are some schools that are
6 owned by the religious order so there are three in Christchurch, three secondary schools, so
7 those religious orders are still responsible for them. We have some oversight within the
8 education and overall diocese, but they are primarily responsible for them. And we have no
9 other works. Except the Sisters of Nazareth have a rest home in Brougham Street which
10 they own, and they run, and apart from that there are no others.

11 **Q.** So, there are none involving children?

12 **A.** No, none involving children.

13 **Q.** Paul, I know that you have read all of the survivor evidence that has been tendered for this
14 hearing and while you were unable to be here last week and hear the witness statements,
15 I know that you wanted to share some reflections with the survivors from Marylands about
16 what you've read.

17 **A.** Thank you. I know that Cardinal John has last year – gave an apology to all victims and
18 survivors for what has happened within the church in New Zealand and yesterday Brother
19 Timothy apologised on behalf of the Brothers, and as the person responsible now for the
20 Diocese of Christchurch and formerly the Bishop, I too want to say to survivors and victims
21 that it really – it breaks my heart to hear them telling – to read their stories to, hear some of
22 them and to know that what was supposed to be a good place for people often from
23 vulnerable backgrounds was anything but, and I too, in the history of our diocese, to carry
24 that terrible history is a real burden for us, but nothing like the burden that the victims have
25 carried.

26 So, I want to apologise. I know that that's often not seen – but I do want to convey
27 the deep sadness that I feel as the Bishop, but I know our Catholic people do as well,
28 because this was an institution that was supported by the community and people and so to
29 know that what we thought we were supporting was not actually doing what it should be
30 doing, and in fact anything else but, is really – is a cause of deep shame and sorrow, and
31 I want to put that to people who are victims, and that we do want to – that's why we're here,
32 we want to be better. We don't have these institutions anymore, but the effect of that is –
33 well, we've heard – I've read and heard, and as have you, so I do want to place that before

1 the victims and survivors and to know that we do take it really seriously and do really want
2 to try and be better now and into the future, so people are safe.

3 **Q.** Thank you, Paul. I'd like to ask some questions about Hebron now and again you have no
4 direct knowledge of Hebron itself, so I'm going to ask some questions around the
5 structures. We do know from the historic record that Bishop Hanrahan asked the Brothers
6 to come to New Zealand to assist with issues at the time in the 1980s for street kids. And
7 Monsignor Daly's opinion, which you agree with, is that this is an entrusted work, so
8 different to the concept we were talking about before.

9 So, are you able to explain to the Commissioners and people listening what an
10 entrusted work means?

11 **A.** Yes, my understanding of it was that when the idea, as I said before, the Bishop recognised
12 the need for care of street kids, which very – which was good, and then said well how can
13 we – what can we do to help this? So, he went to the Brothers and said are you able to help
14 and provide people to come and do this, and they said yes, and that work – so the beginning
15 sat with the diocese and then it was entrusted to the Brothers for them to run. And then
16 obviously the structures changed within Hebron quite quickly.

17 But again, a bit like Marylands, the fact that what was supposed to be a work for
18 street kids, it actually ended up being a place where street kids were abused is really
19 terrible, and, you know, it was one man who really, having done terrible damage at
20 Marylands, then came back and did the same with street kids. I'm sure that – I can't speak
21 on behalf of Bishop Denis Hanrahan but I'm sure he'd be horrified to think that what was
22 supposed to be that ended up being what it was.

23 Again, for those who are survivors of Hebron and Brother Bernard, ex-Brother
24 Bernard, I again offer my sincere apology for that in the same spirit of the Marylands
25 experience.

26 And one of the things, you know, for us now is how do we keep people safe – we
27 don't run things in quite that way either anymore, but we want to make sure that if these
28 things are set up, that they are – people are kept safe.

29 **Q.** So, Paul, just to return to that. Are there these kinds of entrusted works now within
30 Christchurch or the church in New Zealand?

31 **A.** Generally, not, not that I'm aware of.

32 **Q.** Paul, I'd like to talk a bit now about some of the evidence we had yesterday about the
33 responsibilities between the head of the congregation in New Zealand and the Bishop of the
34 Diocese that the congregation is operating in.

1 Again, these have changed over time, so I'll ask you about the responsibilities now,
2 in the time that you have been a Bishop. So, starting just to describe the relationship that
3 you would have in modern day between yourself as a Bishop and a congregational leader in
4 your diocese, what's the nature of that relationship?

5 A. Sure. In the Christchurch diocese we have two religious orders who work in parishes and
6 then we have the Sisters of Nazareth, as I say, who run Nazareth House which is a
7 retirement home for elderly people. And then the other religious who are still in the
8 diocese, most of them are retired religious sisters and a few brothers.

9 I meet with the congregational leaders every year, so we talk – we meet, and we talk
10 about what's happening for the religious. As I say, most of them are retired now, and so are
11 not involved in active pastoral ministry.

12 If the religious orders – the priests who are working in the parishes, we have a
13 contract with them, which is with the religious order for the provision of service there, and
14 an outline of what's expected of that, and they're expected to take part in all the
15 safeguarding and all the other protocols that we all follow, and that's what they do.

16 So, there is a clearer relationship. And because they're not entrusted or works
17 proper, then it does sit with the Bishop more clearly than in the past where it would have
18 been – where that was different.

19 **Q.** So, do you have a formal supervision or oversight relationship with the members of
20 congregations?

21 A. No. If there was an issue with a member of a congregation I would go to their provincials –
22 if it came to me I would go to the Provincial Superior and say this has come to my notice
23 regarding Brother X, Sister Y, or Father Z, and I would expect them to do deal with it in the
24 first instance but to keep me informed of where that is at. So that would be within that
25 scope.

26 If it was that the particular religious was doing a work – say if the person was
27 working in the diocesan curia, say a sister was working in our – curia is a fancy word for
28 diocesan offices – had a role there and something happened there, then she would have an
29 employment arrangement with us, as all the other staff did, and that would be dealt with on
30 the employment level there and on the religious life level with her or his provincial
31 superior.

32 **Q.** So, talking specifically about allegations of harm, if that had come to the notice of the
33 congregation, what would your expectations be about what you would be told?

34 A. You mean now?

1 **Q.** Yes.

2 **A.** Yes, I would expect to be told that the person had had these allegations made against them
3 and that that was being investigated and that the person was either, while it was being
4 investigated, was not in ministry, or that the person is still in ministry, it's being
5 investigated and these are the safeguards we've put around at this time while the
6 investigation is taking place. So, I would expect to be informed.

7 **Q.** Paul, in 2009 Pope Francis, and I'm going to mangle the Latin so forgive me, promulgated
8 Vos Estis Lux Mundi in relation to this. What are your responsibilities under that –
9 Commissioners, this is from paragraph 90 of Monsignor Daly's evidence. So, what does
10 Vos Estis mean for Bishops, Paul?

11 **A.** It lays out clearly for us what is expected in terms of process. If there are complaints made,
12 whether the complaint is then – goes to Rome, which would be to congregation, to be – to
13 let them know and to ask for what are the next steps, they come back to us and then we go
14 from there. So that there's a canonical process as well as a local disciplinary process, which
15 would run through the National Office of Professional Standards for us here.

16 So, it does make clear for us what are the levels and the lines of reporting and
17 accountability and process. I think, Sally, it was 2019 rather than 2009.

18 **Q.** Apologies, I was reading 2019 in the paragraph. Yes, it was 2019.

19 **CHAIR:** This is paragraph 63.

20 **QUESTIONING BY MS McKECHNIE CONTINUED:** And the particular significance of this,
21 Paul, amongst others, is that this is the first time the Pope has made specific direction in
22 relation to congregations and members of congregations in this regard.

23 Are you aware of what would have happened in the 1960s and '70s between a
24 congregational leader and the local Bishop if there was an allegation of harm by a member
25 of the congregation?

26 **A.** I'm not, I'm not, I don't know what would have happened there.

27 **MS McKECHNIE:** Commissioners, there are some historical documents in the record which we
28 can bring the Commission's attention to. Such as they are, it appears that matters were
29 referred but nothing further was done by the Bishops in relation to these matters.

30 **CHAIR:** Referred to Bishops?

31 **MS McKECHNIE:** There's a record, Commissioner, of a complaint being made to Cardinal
32 Williams in Wellington which he then referred to Christchurch to a Bishop Liston – I get
33 that Bishop wrong, apologies, to the Bishop of Christchurch at the time which was then

1 referred to the congregation. But there are very few historic records of the time that I was
2 asking Paul about, about what actually happened in fact.

3 **CHAIR:** Does that accord with your understanding?

4 A. From that time do you mean?

5 **Q.** Yes.

6 A. It's what I would have expected would happen, but I don't know.

7 **Q.** You don't know.

8 **QUESTIONING BY MS McKECHNIE CONTINUED:** You spoke briefly before about your
9 expectations as the Bishop about safeguarding for priests and for congregations. If you had
10 concerns now as a Bishop that safeguarding measures were not in place or that there had
11 been an allegation and action was not being taken, what as Bishop would you be able to do
12 in relation to congregations?

13 A. I would be – firstly, I would be very surprised if nothing was happening because my
14 experience is that religious congregations, and especially where we're trying to be now, are
15 very – are on to it. If they weren't, I would be ringing up the Provincial superior and saying
16 we talked about this, what has happened, and if they say nothing, then I would want to
17 know why.

18 I think we do have that sort of directness of relationship that we do know each other
19 and especially in my experience as a priest and now that the expectations around
20 safeguarding and the processes are clear and they are taken seriously. So, I would be really
21 surprised and very disappointed if nothing was happening.

22 **Q.** If that were the case though, and there was a failure of your view, do you have any formal
23 canonical powers as the Bishop in relation to congregations now?

24 A. I could certainly say to the religious superior – that person is to leave the diocese and to
25 return to you, and I'd be informing the Bishop of whatever diocese, wherever the person
26 was, that that had happened. So, I could certainly do that.

27 A religious work in a diocese under the permission of the Bishop. So, when a
28 Provincial for example wants to move priests to Christchurch diocese, they write to me and
29 say, "we would like – we're looking to bring Father X to Christchurch to work here and
30 I give my permission." I also have the right to say, "No, I do not want that person in the
31 diocese for these reasons". It has to be – I have to have a reason for it. So, there is that.

32 **CHAIR:** Can I just ask while it's in mind, how – has that always been the case, that the Bishop has
33 always had that power to accept or ask to go, or is it more recent?

34 A. I would have thought so, but I'm not sure, but I would have thought so.

1 **Q.** That's always been the prerogative of the Bishop of the diocese?

2 **A.** Yes, yes, it has, yes, it has. So, I'm not sure, I'm sure we could find out, but I'd be pretty
3 confident that was the case.

4 **Q.** All right, thank you.

5 **MS McKECHNIE:** Commissioner, I think the answers to that question are in the structure of the
6 church document which we've previously filed with the Commission and we can highlight
7 the relevant paragraphs.

8 **QUESTIONING BY MS McKECHNIE CONTINUED:** Paul, just a final question before I hand
9 over to – I think Ms Glover will be asking you some questions for the Commission. Just
10 some final questions on the current structures.

11 There has been some call from some of the witnesses to have the congregation of
12 St John of God removed from New Zealand. They aren't formally in New Zealand
13 anymore, are they?

14 **A.** No, there are two Brothers in retirement left.

15 **Q.** But imagining that this was a congregation that still had an active ministry presence in
16 New Zealand, what is the process, should there be need to, for a congregation to be
17 removed from a country?

18 **A.** Again, I think if what had – if we wanted to do that we would talk to the provincial superior
19 and say we think you should leave. And if they were to say no, we're not going to leave,
20 that would suggest we've got bigger problems.

21 So generally – and if that was the case, then I think you would go down a more
22 serious and formal line around that.

23 But in the first instance you would have a conversation with them and say, "Look,
24 this is not, you know, your congregation has not done what is required, has caused so much
25 grief and pain and therefore the effectiveness of your mission, of what you're trying to do,
26 is not working and we don't, you know, it's unhelpful for everybody." So, I think that would
27 be in the first instance. If they didn't respond, then we'd begin a more formal process.

28 **Q.** By formal process do you mean a Canon Law process?

29 **A.** Certainly, I would go to the canon lawyers and say, "Where do we stand on this?" I don't
30 know canonically myself, I haven't looked that up or been in that situation. That's what I
31 would do.

32 **Q.** A final question, in asking about the relationship you have with the congregational leaders
33 and the congregations Bishops have, you talk about conversations and you talk about
34 needing to speak to them. There is some concern that we've heard in survivor evidence that

1 there's a closeness of relationship between these leaders and that you're not rigorous with
2 each other. Have you got any response to those concerns?

3 A. I can only really speak of the last three and a half years that I've been a Bishop, so I haven't
4 had that. And obviously in the Diocese of Christchurch, as I've said before, the majority of
5 the religious are retired and so the issues around ministry is not – I do think that, certainly I
6 would try and – I mean I want to act with integrity, I want to do – I'd want to do what's
7 right. So, if I had to speak the hard word with them, I would, and I know that they would
8 with me, because while we might get on, if you like, have that – we also, we have roles and
9 responsibilities that we take really seriously. And so, I'd like to reassure survivors or
10 victims that if this was the case, that it wouldn't just be a buddy-buddy let's sort it out. It
11 would be – it would need to be formalised and clear.

12 So that's all I can really say on that. But it is, yeah, we do want to do – I want to do
13 the right thing by everyone.

14 **MS McKECHNIE:** Thank you, Paul. Ms Glover has some questions now for you.

15 **CHAIR:** Thank you, Ms McKechnie.

16 Yes, Ms Glover.

17 **QUESTIONING BY MS GLOVER:** Thank you, Madam Chair.

18 Paul, my name is Jane Glover, I'm one of the counsel assisting the Inquiry. I'd like
19 to start by asking you some questions around the establishment of Marylands. I appreciate
20 that that will be from the documentary record and that these are matters that have been
21 outlined in Monsignor Daly's statement which you've read and endorsed.

22 A. Mmm-hmm.

23 **Q.** So even before the St John of God Order came to New Zealand, there was already a facility
24 here called Marylands, wasn't there?

25 A. There was.

26 **Q.** And those buildings were in Middleton, the original buildings, and they'd been used since
27 around 1921 by the Sisters of Nazareth for a boys' home?

28 A. Yes.

29 **Q.** And then in 1952 the younger boys moved from there with the Sisters of Nazareth to the
30 orphanage at Halswell called St Joseph's?

31 A. Yes.

32 **Q.** And at that point, another order, the Picpus Fathers took over the care of the older boys
33 who were left at Middleton and that facility became known as Marylands?

34 A. That's my understanding.

1 **Q.** But by 1954 it seems that the New Zealand Bishops were looking to replace the Picpus
2 fathers and if we could bring up, please, document CTH0015246 at page 3. You'll see there
3 that this is a letter dated 16 September 1954 from a St John of God Brother, that's according
4 to Monsignor Daly, and this Brother wrote and you'll see the highlighted passage there, and
5 I apologise for the language around disability in this document and in other documents that
6 we will refer to. So, this St John of God Brother says:

7 "The Archbishop of Dublin asked me to see the Most Reverend James Liston,
8 Archbishop, Bishop of Auckland, New Zealand. I saw him in the Archbishop's house. He
9 requested in the name of the Bishops of New Zealand that the Brothers take over the
10 administration of a house in Christchurch for the mentally subnormal and delinquent boys.
11 His Grace the Archbishop of Dublin said it was an opening which we should favourably
12 consider."

13 So, the St John of God Brother is saying here that the Bishops requested the
14 Brothers take over the administration of the house in Christchurch from these mentally
15 subnormal and delinquent boys. But I understand the church's evidence to be, including
16 your evidence, that actually pre-1955 Marylands was housing orphans and not mentally
17 subnormal and delinquent boys and that there was a distinct change in the cohort when the
18 St John of God Brothers took over; is that correct?

19 **A.** Yes, I think so.

20 **Q.** If we could look, please, at document CTH0015246 at page 6, we can see from the top
21 there that this is a letter dated 14 October 1954 from Bishop Joyce in Christchurch to
22 Bishop Liston in Auckland and it's about a recent visit that the Brothers had made to
23 New Zealand, to Christchurch and to Marylands. If we can call out the highlighted part
24 there, the fourth paragraph, he's saying:

25 "The Brothers are not interested in taking over Marylands for the care of delinquent
26 boys. They say delinquency is not their work, they being nurses and psychiatrists and not
27 educators. They are however very anxious indeed to start a foundation for retarded
28 children."

29 And he goes on to note that Archbishop McKeefry had offered to allow the St John
30 of God Brothers to open a mental home in Wellington if Marylands were to be retained for
31 delinquent children.

32 Then if we can call out, please, the final paragraph on that page, which is
33 highlighted there:

1 "However, I am still quite prepared to make Marylands available for a national need
2 and so far my conversations with the Brothers led me to believe that they would like to take
3 over Marylands and start a home for retarded children."

4 So, as I understand it, that's broadly consistent with your understanding of what
5 actually happened.

6 A. It is.

7 Q. That letter referred to a visit to Marylands and we know that in the early part of October
8 1954 three St John of God Brothers visited Christchurch to see Marylands. We don't need
9 to go to this document, but I'll give the document number for the record and for your
10 counsel, which is CTH0016311_00002.

11 Bishop Joyce apparently showed the Brothers the property and the buildings on it
12 from afar, from behind a hedge, in order not to alert the Picpus Fathers to what was in the
13 offing for the property. Do you have any idea why they hid behind the hedge?

14 A. No, I don't. Would you like me to speculate?

15 Q. No, but we do know that there were allegations of sexual and physical abuse that had been
16 raised – about the Picpus Fathers, that had been raised by the diocese by that time, don't
17 we?

18 A. I'm not aware of that.

19 Q. You're not familiar with those?

20 A. No, I'm not.

21 Q. I don't think we'll spend the time of going to the documents, but again for your counsel's
22 sake, the reference there is CTH0016311_00004. One of the things that you talked about
23 with Ms McKechnie was this difference between proper works and entrusted works, and I'd
24 like to ask you some questions about that, and get some greater clarity around it.

25 But before we dive into the depths of Canon Law, can you please explain just in
26 general terms your understanding of the responsibility of the diocese to people who were
27 abused at Marylands as children?

28 A. My understanding is that when Marylands – when the St John of God Brothers came to
29 Marylands and the work was given to them, that that was handed over to them to do and to
30 care for, and that the – in that sense that the diocese was not given reports of what was
31 happening at Marylands, you know, on an annual basis in the same way that it wasn't for
32 any of the works proper to religious orders. And so, in that sense the – what was happening
33 there was the responsibility of the Brothers.

1 **Q.** I'm really thinking bigger picture. So, you say in your evidence that Bishops have pastoral
2 responsibility for all people in their diocese?

3 **A.** They do.

4 **Q.** What do you understand that to mean?

5 **A.** Well, I suppose it depends on the – like certainly, do you mean now or then or in all time
6 or –

7 **Q.** Has the pastoral – a Bishop, the fact that a Bishop has pastoral responsibility to all
8 members in the diocese, has that changed?

9 **A.** I think what I understand, and I think what we understand as Bishops of the pastoral care is
10 to ensure that things are set up to care for the pastoral needs of the people. The Bishop can't
11 do all of that himself. Our role is to set up parishes in schools and that will care – that will
12 look after them, their pastoral needs. That's –

13 **Q.** So, is that the extent of it? You set up the processes and stand back and there's no further
14 responsibility for what happens?

15 **A.** Well, I think it depends now upon – for example, in a school, if it's a diocesan school, then
16 the board of trustees are responsible for that, and the Bishop as proprietor is to ensure that
17 the boards of trustees do their work and that the faith and spiritual lives of the children in
18 the community are developed. In terms of other – we don't have the institutions anymore.

19 **Q.** Let's think then about Marylands and the Hebron Trust. What is the diocesan responsibility
20 to those people, many of whom we've heard from, who were harmed at those institutions,
21 who were abused there?

22 **A.** I think our responsibility is that given the structures that were there, we, in hindsight, we
23 needed to have – we needed to have more oversight than we did. But because they were
24 given – at that time and the way that it worked, that's how it was.

25 **Q.** What about any ongoing responsibility to those survivors?

26 **A.** Certainly, now we try and support them as we can, but the direct responsibility for them lay
27 and lies with the St John of God.

28 **Q.** What does that mean in practical terms, "we support them as we can"?

29 **A.** It depends, generally people who are survivors of Marylands would work and deal with the
30 St John of God Brothers, so they don't tend to come to the diocese, they go to the Brothers
31 for their support. But if they were to come to us, we would then look to see –we would
32 work with the Brothers how can they be supported through counselling or pastoral care or
33 in that sort of domain.

34 **Q.** So, the diocese would effectively underwrite the obligations of The Order to provide that?

1 A. No, we would work with the Brothers around how they do that, it wouldn't be an
2 underwriting, it would be the Brothers have taken responsibility for those, we heard that,
3 and that's who they deal with.

4 And certainly, in my time as the Bishop I haven't had people come to me from
5 Marylands in that way. And if they did I would talk to them about going to see the Brothers
6 and dealing with them in the first instance.

7 **Q.** The Inquiry has received evidence that after 1983, when a Bishop was notified of abuse by
8 a Brother he should have ensured that the Brother was removed from Ministry by The
9 Order and ensured that The Order properly investigated the complaint. You've already said
10 that's your current understanding of what should happen. Do you accept that that has been
11 the case since at least 1983?

12 A. What was the context of it from in 1983, please?

13 **Q.** That's from Monsignor Daly's evidence, and he's talking there I believe about the Code of
14 Canon Law in 1983.

15 A. Right, yes, which came in in 1983, so before that the code was 1917, yeah.

16 **Q.** So, do you accept that at least since 1983 that's the procedure that should have been
17 followed?

18 A. Well, if that's what Canon Law says, then I would have thought that that's what should have
19 happened.

20 **Q.** And we've also been advised that the Bishop should have made sure that he was fully
21 informed about the results of the investigation and if the Brother was guilty of a grave
22 crime, the Bishop should have made sure that the Brother was dismissed from The Order.
23 Do you agree with that?

24 A. I don't know.

25 **Q.** Is it correct that if a religious superior such as a Provincial, fails to act in a case of sexual
26 abuse, the Bishop must insist that the Provincial act?

27 A. I – are you talking about now?

28 **Q.** Let's say before Vos Estis in 2019, so immediately prior to that, so this is relatively recent
29 times within your experience, would that have been the case; if a Provincial had failed to
30 act must the Bishop have insisted that the Provincial act?

31 A. I really – I don't know. In terms of the must and the – no, I don't know.

32 **Q.** You've said that a Bishop has always had the power to forbid a Brother from remaining in
33 the diocese; correct?

34 A. Yes.

1 **Q.** And in their opening, SNAP said that the Bishop had the ability to demand that the entire St
2 John of God Order leave the diocese and you've said that you're not sure about it, but that
3 may have been a possibility?

4 **A.** Yes.

5 **Q.** And may still be?

6 **A.** Yes.

7 **Q.** In their opening, SNAP [Survivor Network of those Abused by Priests] also said that when
8 the criminal proceedings commenced in relation to Marylands, at that point the Bishop
9 should have suppressed The Order immediately. In your view, was there ever a point at
10 which the Bishop of Christchurch should have demanded that the St John of God Order
11 leave the diocese?

12 **A.** I'm not sure the date in which – when they stopped actually having Brothers actively
13 working within the institutions that they were in. I think the Bishop would certainly want to
14 consider that very seriously, and also the number of allegations and how many Brothers
15 were involved. Because, that would influence how the Bishop might see the work itself,
16 could it be sustained if the Brothers left, you know, because that's another reality, or should
17 the work close down if they were to go.

18 So, I think it's – you would look at the circumstances and situation of each case
19 before – if I was doing that now, that would be how I would deal with it.

20 **Q.** Does the Bishop's canonical responsibility for an order, such as the St John of God Order,
21 differ from a Bishop's canonical responsibilities for a public juridic person such as the
22 Hauora Trust?

23 **A.** That's a very good question. I would have to check that to see exactly what – a
24 public juridic person, that's a more recent development within the church, and so they
25 would operate if – depends on their – whether they're doing a work, an entrusted work, or
26 whether they are operating independently as a separate entity, which is what the Hauora
27 Trust does.

28 **Q.** So, you don't know whether you could order the PJP [Public Jurdic Person] to leave your
29 diocese now?

30 **A.** Again, I think that I would be going to them, if there were issues, and talking to them in the
31 first case, and saying, "Look, what's happening", because they don't report to me directly,
32 and they operate – I see a copy of their annual report and they have all of their – because
33 they're an entity that is separate.

1 So, it would be more a conversation with them in the first place. So, I'm not sure if
2 I could order them out of the diocese, because they're not directly operating as a Catholic
3 institution.

4 **Q.** You've talked a number of times about this difference between an entrusted work and a
5 proper work. But I must confess I'm still confused by your evidence on this point. Earlier, I
6 think you said that Marylands School was a proper work of the St John of God Order and
7 that it had been entrusted to them to run.

8 **A.** Yeah, that – yes.

9 **Q.** But in Monsignor Daly's evidence, he seems to be drawing a distinction between an
10 entrusted work and a proper work. Is there a distinction between them?

11 **A.** I think what Monsignor Daly, who understands Canon Law much better than I do, I would
12 be – I would be relying upon his understanding of that and his understanding of Canon
13 Law.

14 **Q.** So, these are matters that you've discussed with Ms McKechnie today and they're matters
15 that were explicitly – questions that were explicitly asked of you to address in your
16 statement.

17 **A.** Mmm-hmm.

18 **Q.** Are you saying that even as at today, you're not sure whether there is a distinction between
19 an entrusted work and a proper work?

20 **A.** My understanding is that a proper work is a work that is given to the religious order to do
21 and to run and that a work that is entrusted to it is given to them to do still with a
22 relationship to the Bishop.

23 **Q.** So, as I understand it, the church's evidence is that the Picpus Fathers operated Marylands
24 as an entrusted work of the diocese, is that right?

25 **A.** It is, because the – see, the diocese still own the property that they worked in. When the
26 John of God Brothers came, they bought the property, they ran it, they fundraised for it, it
27 was – whereas before it was – the property was that of the church, so they said to the
28 Picpus, would you come and run this for us. Whereas when the St John of God Brothers
29 came, they took the whole – they bought the land, they bought the, you know, built the
30 buildings that they needed subsequently.

31 **Q.** So Tom Doyle, who's an expert this Inquiry has received various evidence from, he said,
32 and I won't take you to the document, but the reference is MSC0007384, that the Bishop's
33 authority extends to persons and not to buildings or other physical structures or to property,
34 and that that means that the civil or canonical ownership of a building such as a school or a

1 parish is irrelevant. The Bishop's authority, he says, is over the actual works of the
2 apostolate, not the buildings where they take place. So, you disagree with that, I take it?

3 A. If you look at – if you know lawyers, you know that they'll disagree on things and the same
4 happens with canon lawyers. So, my understanding is that is what Mr Doyle has said;
5 Monsignor Brendan has a different understanding of that and I agree with Monsignor Daly.

6 Q. Just while we're on the topic of property, some survivors have said that they were abused
7 actually in the church or chapel or vestry at Marylands, which – was that owned by the
8 diocese?

9 A. No.

10 Q. The St John of God Order brought the church and the chapel?

11 A. They did.

12 Q. As well?

13 A. The whole property, yes.

14 Q. I see. And I understand – so we've got the Picpus Fathers running Marylands as an
15 entrusted work, and I understand that your view is that the Hebron Trust was also an
16 entrusted work. But you've explained that Marylands, during the time it was run by The
17 Order of St John of God, was different, and that was a proper work, you say, not an
18 entrusted work; is that right?

19 A. Yes.

20 Q. So, the Picpus Fathers moved out, a few days later The Order of St John of God moves in,
21 and in your view, because of issues such as the ownership of property, albeit that property
22 didn't transfer for some time, Marylands became a proper work. Have I summarised that
23 fairly?

24 A. You have.

25 Q. And apologies again for the language, but do I correctly understand the church's position to
26 be that if the St John of God Brothers had continued to take care of delinquent boys and not
27 retarded boys, so carried on the work that was already being done at Marylands, Marylands
28 would have continued to be an entrusted work of the diocese, is that right?

29 A. No. I think the nature of it came about because of the agreement with the St John of God
30 Brothers when they came, that they would then – they would fully run the whole
31 proceedings rather than a little bit being entrusted and a little bit being proper, it's that they
32 would then – so where –

33 Q. But the Picpus Fathers were running the whole thing, weren't they?

1 A. They were, but it was only – they'd only been there for two years and it was – my
2 understanding was that there wasn't – that there weren't – the Picpus Fathers didn't have
3 other works in the country, whereas St John of Gods were coming to establish themselves
4 and stay here.

5 And so, as happens with religious orders, and Bishops especially at those time, and
6 there were a lot of religious orders around, looking for different works to do, that the
7 Bishop would have said to the Picpus Fathers, "Look, we want this, we would like the St
8 John of God Brothers to take over the whole running of Marylands and we no longer
9 require your services to run this."

10 Q. So, you're saying that the reason you're saying that it was a proper work of the St John of
11 God Brothers, was because they had in their mind at that time that they were going to set up
12 other works in New Zealand?

13 A. No, they wanted to become established in New Zealand and the church in New Zealand,
14 which I think is the context of the earlier letter that we looked at, was saying we would like
15 an institution within New Zealand to be available for the care of the young people that we
16 heard of before, and that the Bishop of Christchurch said, "Look, I have this property here
17 that can be used for that." Because I think if you looked in the letter earlier they talked
18 about a national place, and we know that boys came from not just in Christchurch to go to
19 Marylands. And so therefore they were looking to the St John of God Brothers to come and
20 to run that.

21 Q. But the Picpus Fathers were also running works even outside the diocese of Christchurch,
22 we know that some of their main works were being done in the Chatham Islands. So, I'm
23 struggling to understand this distinction.

24 A. I can't help you with your struggle.

25 Q. I'm also struggling to understand the fact that Monsignor Daly has said in his evidence at
26 paragraph 7 that the St John of God Brothers had arrived from Sydney and were not
27 interested in taking delinquent boys in their care, which would have been an entrusted work
28 of the diocese. So, he's saying if they had carried on the same work it would have been an
29 entrusted work, but rather they wanted to start a foundation for retarded boys.

30 From what I understand you're saying, you disagree with that?

31 A. No, I think what – I don't disagree. It's that whenever – in this circumstance obviously there
32 was two different needs, there were the, what they've called delinquent boys and then the
33 John of God, whose interest was with young people with disabilities, and so they're saying,
34 "Look, we really – that's where our work is rather – our skills are", but obviously in the end

1 they agreed to take over the running of the whole place with both, because they then went
2 on to have both, is my understanding.

3 **Q.** And what about the St John of God Hospital, was that an entrusted work?

4 **A.** No.

5 **Q.** That was a proper work?

6 **A.** Mmm, it was.

7 **Q.** When the Inquiry sought comment from Tom Doyle on this distinction that you've raised a
8 number of times between proper and entrusted works, he said that it's actually a difficult
9 distinction to apply and that the term "works proper to an institute" no longer even has a
10 very stable meaning. But you are maintaining that there is a meaningful distinction between
11 them, I take it?

12 **A.** Certainly, at that time, yes.

13 **Q.** Perhaps more significantly, Tom Doyle also says that:

14 "In any case the distinction between works proper to an institute and works
15 entrusted to an institute is a distinction that has no relevance to the Bishop's canonical
16 obligation of authority over all works of the apostolate."

17 Would you accept that?

18 **A.** It depends what he means and what is meant by authority over the apostolate.

19 **Q.** All right. Setting aside the niceties of Canon Law for a moment then, in purely moral terms,
20 what do you consider the diocese responsibility to be or to have been to those children?

21 **A.** I think the diocese, the Bishop of the time thought and believed that in bringing the St John
22 of God Brothers here to care for these young people, that he was setting up something that
23 was – that would look and meet their needs just as he did with the Sisters of Nazareth and
24 for the other religious orders that did that.

25 And so, at that time, and there were a lot of things going on, that was the way that it
26 operated. And the Bishop did not have a – you know, at that time there would have been the
27 Bishop and probably a secretary and there wasn't a big administration, that was how it –
28 that was how it was structured. And so, it was the handing over in good faith and in good
29 belief that they would do what they said they would do. As it turned out, that wasn't the
30 case.

31 **Q.** Thinking now about the Hebron Trust, the church's evidence – this is my final question
32 about this distinction – the church's evidence is that the Hebron Trust was an entrusted
33 work, but that its status as an entrusted work waned by the end of 1987. In your view, does

1 that mean that the distinction between an entrusted work and a proper work is something
2 that lies on a spectrum that can wax and wane over time?

3 A. I think it has a lot to do with the administration of the religious order itself. So – sorry to go
4 back to Marylands – the Provincial of the St John of God, the number of staff who were
5 working there, Brothers that were working there, meant that it was all tied up with them.

6 The Hebron Trust had one Brother who was working there, and therefore in that
7 sense, the presence of the Brothers was not as intense, if you like, as it would have been if
8 there were a whole group of them, and so that's when the Board was set up and a different
9 structure.

10 Q. But the question there is, can its status as an entrusted work, if it can wane over time, does
11 that mean it's not a binary either/or distinction?

12 A. I'm not sure about that. I'm sorry, I can't answer that.

13 Q. If we go, please, to document number CTH0018405 at page 3. Just while that document's
14 coming up, I'll let you know it's a written agreement governing the relationship between the
15 diocese and St John of God dated 7 August 2000 and it was signed by Bishop John
16 Cunneen and Brother Peter Burke. Can you see that there?

17 A. I see the cover.

18 Q. This document was provided to the Inquiry just a few days before the hearing. Have you
19 seen it before?

20 A. I don't think so.

21 Q. You've never seen this?

22 A. I don't – what's inside it?

23 Q. Sorry?

24 A. I can only see the cover.

25 Q. If we can scroll through a little bit. Perhaps if we can call out the recitals there from A,
26 actually all of the recitals. So, we see there that recital A is about Marylands:

27 "Whereas the province of the Holy Family of the Hospitaller Order of St John of
28 God, having obtained the permission of the apostolic see established at the request and with
29 the consent of the then diocesan Bishop, Bishop Joyce, a religious house in the diocese in
30 May 1955."

31 And then recital B is about Hebron in May 1986:

32 "Bishop Hanrahan invited the province to begin an apostolate in the city of the
33 Christchurch among homeless people, then known as street kids."

1 Recital C confirms that both of those works are in keeping with the proper mission
2 of The Order.

3 And recital D observes that until that point, no written agreement had been executed
4 before the diocese and The Order, and perhaps at this point in 2000, that oversight was
5 sought to be remedied.

6 A. Mmm-hmm.

7 Q. So, I'm surprised that you are unfamiliar with this document.

8 A. Well, I can't comment on your surprise.

9 Q. So, you were asked in August 2021 to explain the relationship between the Diocese of
10 Christchurch and Marylands, and to provide copies of all the relevant documents.

11 A. Mmm-hmm.

12 Q. But you haven't seen this, and you don't discuss it in your evidence.

13 A. Sure.

14 Q. These recitals don't describe Marylands as being one type of apostolic work over which the
15 Bishop had a more limited authority and Hebron Trust as being a different type of apostolic
16 work, ie an entrusted work, do they?

17 A. From my reading of this, it says that they established a religious house in the Diocese of
18 Christchurch. I don't see any reference to Marylands per se, just that they've opened a
19 religious house, which –

20 Q. At the very time that they came to Marylands.

21 A. Sure, but this document here is not – does not refer to Marylands.

22 Q. You don't think that recital A is about Marylands?

23 A. What it's saying is that it's opening a religious house. So, when a religious order comes to a
24 place they open, in order to be able to operate, they open a religious house, so they'll open a
25 convent, they'll open – then from that religious house they will do particular works. So,
26 assume in this context the religious house was opened for the purpose of being able to then
27 run Marylands, that's correct.

28 Q. During some criminal proceedings relating to Bernard McGrath in 2006, Peter Burke gave
29 evidence that The Order of St John of God is an exempt order and has less accountability to
30 the Bishops and to the wider Catholic Church in New Zealand than other religious institutes
31 in this country. Does Peter Burke's comments surprise you?

32 A. I would have thought that they would have had the same relationship as other religious
33 orders in the country, I'm not sure what he would have meant by exempt.

1 **Q.** And he also said that it was optional for The Order to use A Path to Healing protocol
2 because the Hospitaller Order of St John of God is an exempt order, so again, you wouldn't
3 have any knowledge of it being an exempt order?

4 **A.** No, I don't, no.

5 **Q.** Or having any ability to opt out of A Path to Healing relative to other orders?

6 **A.** My understanding is that A Path to Healing religious orders were not – they opted in to
7 operate under that. So, they could choose not to be, but to have their own processes.

8 **Q.** But so far as you understand it, there was nothing special about this order that would have –

9 **A.** Not that I'm aware of.

10 **Q.** Marylands School was officially opened in August 1955. To much fanfare, the opening and
11 blessing was conducted by the Archbishop of Wellington, but it didn't actually open to
12 students for another few months, did it?

13 **A.** I'm not sure of the exact details around that.

14 **Q.** If we could go, please, to document CTH0015141 at page 12. This is a letter dated 24
15 October 1955 from the Bishop, presumably Bishop Joyce to the Minister of Health. He says
16 on the following page, page 13, halfway down the second paragraph:

17 "I regret to state that during the past month, I have been attacked from all sides and
18 from all sections of the community with the one question, when is Marylands going to
19 open? Has anything gone wrong?"

20 Would you accept from this that people in the community thought that the Bishop
21 had responsibility for what was happening at Marylands?

22 **A.** I'm sure that they would have thought that.

23 **Q.** You've also mentioned that various survivors have approached the diocese, although
24 Ms McKechnie says not very many of them, regarding abuse at Marylands and the Hebron
25 Trust. To take one early example, in 1993 Bishop Meeking forwarded a complaint of abuse
26 from a clearly very distraught mother of a disabled survivor to the St John of God
27 Provincial, and if we can go, please, to document CTH0016715 and put that up on the
28 screen.

29 While it's coming up – here we are. It's a short letter. We see here that the Bishop
30 simply asked the Provincial to write to the mother indicating that he had received the
31 complaint from the Cardinal and that the matter was being dealt with. There was no
32 suggestion whatsoever that the Bishop was seeking to exercise any continued involvement
33 or oversight, is there?

34 **A.** Not from those four lines.

1 **Q.** In your view, was this response from Bishop Meeking sufficient?

2 **A.** I don't know whether Bishop Meeking had talked to Brother Joseph before writing the
3 letter, whether there'd been any context to this, so I wouldn't like to presume that.

4 **Q.** If this was all that there was, if there were nothing else, was that sufficient?

5 **A.** I can't comment on that. I would write it differently myself, but I don't know the context, so
6 I can't say.

7 **Q.** You don't think that the Bishop had an obligation to ask to be informed of the outcome, to
8 maintain some level of oversight over the complaint?

9 **A.** If you go back to your earlier comments around the Code of Canon Law in 1983, then he
10 may have presumed, because that was what was required, that that would happen anyway,
11 and therefore he didn't put it in this letter. But it does not mean that he didn't expect that or
12 anticipate that that would happen. It simply isn't stated in this letter.

13 **Q.** Michelle Mulvihill mentioned that in 2007 an Australian Bishop took the proactive step of
14 writing to the head of the St John of God Order in Rome with concerns about the Oceania
15 Province of St John of God and the Bishop suggested an apostolic visitation authorised by
16 the Congregation for Institutes of Consecrated Life.

17 Do you know whether any New Zealand Bishops considered writing to the head of
18 the St John of God Order in Rome or contacting the Congregation for Institutes of
19 Consecrated Life?

20 **A.** I don't know that, sorry.

21 **Q.** Are you aware of a cottage at Marylands or the orphanage where trainee diocesan priests
22 and seminarians stayed?

23 **A.** I'm aware that there was a place where the priest chaplain stayed.

24 **Q.** Was that a cottage, was that a cottage at Marylands or on the orphanage site?

25 **A.** I'm not sure, sorry.

26 **Q.** So, you don't know whether that is the farm cottage that was later used by the Hebron
27 Trust?

28 **A.** I don't know.

29 **Q.** The final document I'd like to take you to is MSC0007116. You'll see that this is a report of
30 matters discussed at the Special Issues Committee of the Australian Catholics Bishop
31 conference around the time of McGrath's first criminal trial.

32 I'd like to explore with you whether any matters raised here, were also applicable in
33 New Zealand. So, if we look at paragraph 2.3, it says:

1 "Discussion took place concerning the use of questionnaires which have been
2 completed by Bishops over the past two years. It was noted that Bishops may often be
3 involved in a damages claim against a member of a religious congregation, particularly
4 when such a member is involved in a pastoral activity under the supervision of a Bishop.
5 Completed questionnaires are to be held for the present and then destroyed after further
6 advice is obtained by CCI."

7 Do you know what the reference to questionnaires means here?

8 A. No, I'm sorry, I don't.

9 Q. So, there weren't equivalent documents in New Zealand?

10 A. Not that I'm aware of.

11 Q. Then further down this document we see a reference to Sister Angela Ryan making contact
12 with Brother Vianney Walsh to obtain a report on the setting up a therapy centre under the
13 supervision of the St John of God Brothers. Have you ever heard of a suggestion to set up a
14 therapy centre for victims under the supervision of the St John of God Brothers?

15 A. No.

16 Q. And then further still, we see a statement that Bishops should be aware of problems that
17 may occur if they discuss the details of the allegations with the alleged offender. In your
18 view, is it acceptable for Bishops to meet with alleged offenders? If the offender were a
19 religious Brother, say?

20 A. No.

21 Q. Do you know why this was raised as an issue in 1993?

22 A. I do not.

23 Q. To your knowledge, had a Bishop met with Bernard McGrath around that time?

24 A. I'm sorry, I can't answer that.

25 **MS GLOVER:** Thank you, Madam Chair, I'm just keeping an eye on the time.

26 **CHAIR:** We have a choice of either breaking now and coming back for a short resumption or just
27 carrying on until you've finished. I'll leave it in your hands.

28 **MS GLOVER:** Thank you.

29 **CHAIR:** Do you wish to take a break as this moment or –

30 **MS GLOVER:** No, Madam Chair, the options I'm tossing up are whether to continue or to just
31 simply pass over for questions from Commissioners.

32 **CHAIR:** I don't want to rush you. It's just really a question of whether we carry on now or take a
33 break and carry on after the break.

34 **QUESTIONING BY MS GLOVER CONTINUED:** Let's continue then.

1 There are a few discrete questions around the Picpus Fathers leaving that you may
2 not know the answers to, but I'll check with you anyway.

3 Are you aware of the Bishop suggesting that the Picpus Fathers would be leaving
4 Marylands and that nuns would be taking over the property?

5 A. No.

6 Q. You've never heard anything to that effect previously?

7 A. No.

8 Q. And what about the suggestion that the Bishop was considering closing the school being
9 run by the Picpus Fathers to offer the property to the Government as a housing block?

10 A. I'm not aware of that.

11 Q. Thinking about the hospital, although the – we know that the Brothers withdrew from
12 running Marylands School in 1984, they continued to be involved with the St John of God
13 Hospital at Halswell. Actually, if we could go to this document, please, it's CTH0016757.
14 This a letter from Bishop Meeking to the Provincial saying that he had heard rumours that
15 the Brothers were giving up the hospital. He says, the second paragraph there:

16 "This leaves me rather perplexed. I should have thought it normal to have informed
17 the diocesan Bishop by this stage."

18 You would agree with that, presumably?

19 A. I'm not sure the timeline of when this came into, but I would have thought that –

20 Q. If an order were planning to leave they would inform the Bishop?

21 A. Yes, or that they're thinking about it, yes.

22 Q. And then he goes on to say:

23 "There is the question of the church and of the cemetery to mention but one thing.
24 A building of such value and artistic significance could not in church law be alienated
25 without the consent of the diocesan Bishop."

26 And he says:

27 "I should appreciate adequate information and regular contact that would keep me
28 abreast of what's happening and allow me to ensure that the interests of the diocese are not
29 neglected."

30 I take it your understanding is that as at 1992 The Order owned both the church and
31 the cemetery, is that right?

32 A. That's right.

33 Q. So, what the Bishop is saying here, presumably then, is that he would be concerned if those
34 assets were to be sold to a non-church agency or to an organisation he had not approved?

1 A. There's a whole restriction around the selling of churches and what they can be used for,
2 and so that's what he would be alluding to there, yes.

3 **MS GLOVER:** I see, thank you. Commissioners, if you have any questions, that concludes my
4 questioning.

5 **CHAIR:** Thank you.

6 **COMMISSIONER ALOFIVAE:** Bishop Paul, in listening to your evidence this morning, it took
7 me back to a quote that I recalled from Dame Whina Cooper where she talked about
8 children and the quote was "take care of our children, take care of what they hear, take care
9 of what they see, take care of what they feel, for how children grow, so will be the shape of
10 Aotearoa".

11 And we've seen the impacts of the survivors and sometimes they've been referred to
12 as victims from Marylands and from Hebron Trust and also from the orphanage, St Joseph's
13 Orphanage.

14 My question really comes back to, again it's the authority of the Bishop, and it's the
15 perception and the reality. So, thank you for evidence that's already been provided. But
16 I wanted to ask you really around what – the pictures that we're coming to see is that the
17 Bishop has this overall authority in his diocese and I think your Canon Law actually
18 supports that. But in your diocese you can have a number of different religious
19 congregations that can come in, so there's a courtesy, there's a civility that they're supposed
20 to be in contact with the Bishop, and then there's an expectation that the Bishop will be
21 across their business.

22 What I'm really asking is, in this situation, it's still very grey how much the Bishop
23 is actually across the business of all of the different religious congregations or
24 congregations actually within their diocese and whether or not in your view, now as the
25 Bishop, that should actually be strengthened. Because we've seen what happens when it's
26 not, I think we've been hearing that in evidence throughout this week and previously as
27 well. Can you comment on that?

28 A. I can. I think the perception that the Bishop – the Bishop has authority over the diocese in
29 sort of – in a global sense and around – in quite particular areas of which he has authority.

30 On a day-to-day basis, the running and the life of the diocese, it's too – there's too
31 much going on for a Bishop to be able to (a) have that, and actually to necessarily want to
32 have that. So especially in the past, I think I alluded earlier, there would be a Bishop and he
33 would have a priest who might be a secretary, and there might be a secretary for – and that
34 was the whole of the – so it was very much that religious orders, they had a whole structure

1 and a system and that they were doing the work and that the Bishop sort of set it up, as
2 I alluded to.

3 And so, the idea that he had his finger, not fingers, that's the wrong, but that he had
4 an oversight of it all is not quite – it wasn't the reality, and it wasn't really the expectation
5 either, from the Bishop.

6 **Q.** Which would be a different expectation from the people, the Catholic community?

7 **A.** That's right. People think that the Bishop has – but in fact you can't do that, and so parishes
8 have a whole lot of Canon Law around autonomy for them. So a lot of it is actually, it's
9 about dialogue and goodwill and talking and connection, and you only go to the authority
10 line if it really has to go there, if there's some – it gets to a point where you say actually
11 under the code of Canon Law this is, you know, you have to do this. But normally you talk
12 and so it's a much – it's much less authoritarian than it's perceived in Canon Law, that's
13 when you get to the crunch point, then yeah.

14 **Q.** So, we can understand the operational aspect of it, parishes run their own churches and
15 congregations do the same, and it's really the governance component that I'm asking about
16 here is – .

17 **A.** Sure.

18 **Q.** So, when you've got an order like the St John of God coming into New Zealand wanting to
19 set up a specific school for a specific purpose in line with their charism, when you're
20 coming into a context like a nation like Aotearoa, we've got a first – we've got an
21 indigenous population here.

22 **A.** Sure.

23 **Q.** But there's no connect with really, you know, the socio-political context of our nation,
24 there's no mention of Te Tiriti, there's no mention of being able to take, you know, a
25 cultural lens.

26 **A.** Sure.

27 **Q.** Education is a culture as well, but in this case a specific ethnic lens over what's happening.
28 But neither is the Bishop or the wider structure actually interested in taking that lens.

29 **A.** I think we're looking at it very much from a 2020, 2021 point of view, and you're quite
30 right, in 1955 those were not – it was not the way that it was looked at, and my hope would
31 be, you know, if this was happening now, if a religious order was to come in, then in part
32 certainly if we have individuals from other countries coming to work here, we go through a
33 process with them of trying to orient them, spend time living with others, learning about

1 our country, all of those things. But certainly, in the past that was – it was as you said, and
2 it was not a focus and –

3 **Q.** Putting that aside, Te Tiriti's been with us since 1840.

4 **A.** Sure.

5 **Q.** So, this happened literally half a century later in the 1950s. But I want to come back to this
6 point about, so in your view as the Bishop, as a Bishop, whether or not it should actually be
7 written into Canon Law?

8 **A.** Oh right, yeah.

9 **Q.** That there, you know, that there should be this greater oversight, because what I'm hearing
10 is that there is still so many, I was going to say gaps or loose ends where there's so much
11 room for discretion and discernment, and it hasn't always occurred. So, if you talk about
12 how does the church get better, how can the Bishop's role, because what you intend to
13 happen and what actually your Catholic population perceive are two very different things.

14 **A.** I'd be much more confident now that we have much better structures for the oversight of
15 works that we are still doing. As I said earlier, we are not – we don't have institutions like
16 Marylands running anymore. Within our school system we have a Catholic education
17 office, for example, that liaises with all our schools and then the schools sit under the
18 Government for integration and all the requirements there.

19 So that, within our parishes, we're developing – we've certainly developed
20 safeguarding structures to – and expectations for parishes around what that looks like and
21 that's audited, and we have a safeguarding officer who goes around and works with our
22 parishes to see that they are putting in place and that that's being followed through. And we
23 are trying to work at educating our people about the very things you're talking, the role of
24 the treaty, how are we working with our indigenous people, people from other cultures of
25 which the Catholic community now is made up of a significant number of cultures.

26 So, I am – and any new works that are set up now are much more prescribed in
27 terms of what's expected, the reporting – you know, if an order was to come in and do
28 something like you speak, we wouldn't be just leaving it to them in the way that happened
29 in the past.

30 **Q.** And just going back to the period in question here, with the school, what about the sense
31 for the different religious congregations of actually just doing what's right? So, you've got
32 your different – the vows.

33 **A.** Different charisms.

1 **Q.** Well, and different – well, different charisms, but just doing what's tika, what's pono,
2 what's right in terms of there's abuse – I'm really asking about the role of common law here,
3 right, and the law of the land. And why the church – I see there's a very strong drive to be
4 able to comply with your Canon Law, which isn't always achieved, but there seems to be
5 quite a disconnect actually with even understanding the rights of these children and young
6 people and the role of the law of the land, common law, going to the Police, doing what
7 actually would be right in those instances.

8 **A.** I mean I wasn't alive in 1955 so I really –

9 **Q.** Appreciate that.

10 **A.** So, in that –

11 **Q.** It's really the training, you know, of the Brothers, of the different congregations.

12 **A.** Look, I can't – I really can't comment on that in terms of it's not my – I mean it's not in my
13 experience. I guess the only thing I can say is that that wasn't how it was seen, and that's not
14 right, as we know now, but I think that's a developing understanding of all people in
15 Aotearoa, New Zealand, we see it in all institutions and the church was lacking in that area
16 along with the state and everyone else I think.

17 **Q.** No further questions. Thank you, Bishop.

18 **A.** Thank you.

19 **CHAIR:** My colleague has basically covered everything that I wanted to ask, but I just want to
20 make that last point, I want to just develop it very briefly. You said that, and my colleague
21 has said doing the right thing, because it strikes me that listening here from the point of
22 view, not as a lawyer, not as a judge, not as a canonical expert, but as a human being, it is
23 about what was right to do, what was ethical to do.

24 **A.** Sure.

25 **Q.** The higher questions.

26 **A.** Mmm.

27 **Q.** The ones which one would hope that all churches would follow, even before the law –

28 **A.** Sure.

29 **Q.** – and apart from the law. So, here we have evil being done in a society.

30 **A.** Mmm-hmm.

31 **Q.** Evil known to the church as a whole, whether it's a priesthood, whether it's a religious,
32 whether it's a congregation, it is known more or less. It was never right, was it, to cover this
33 up?

34 **A.** No.

1 **Q.** It was never the standard of the time to cover it up, to ignore it, was it?

2 **A.** No.

3 **Q.** It was always the responsibility of the Bishop and every other religious person who knew
4 about this to do something, wasn't it?

5 **A.** It was.

6 **Q.** And that wasn't done?

7 **A.** No.

8 **Q.** The right thing wasn't done, was it?

9 **A.** Not all the time, no.

10 **Q.** For decades the Bishops of Christchurch knew that things were going on, that things
11 weren't right. Could you – and I know this is hindsight and trying to rebuild the past and
12 that you weren't there, but do you think, actually standing back, if a person who held a
13 strong position who said, "This was evil, this was wrong, these people must go", do you
14 think that in spite of all the laws that that could really have been done, if somebody had
15 stood up courageously?

16 **A.** Do you mean these people, as in the Brothers –

17 **Q.** This Order?

18 **A.** The Order should go.

19 **Q.** This Order should go.

20 **A.** In the context all of those things, all of what you say is true, and, you know, why people in
21 society, the church, the state, why we didn't stand up and say that families, you know,
22 families that – covered those things as well. I think that was the culture of the time and it
23 was wrong, and we've heard the results and the fruits of that, and what a terrible legacy to –
24 for us to carry the church as a society, and so that's part of the shame that we carry for our
25 ancestors, our forebears and the things that they've done.

26 All I can say is that we're trying really hard and want to continue to, I'm going to be
27 a Bishop for the next 20 years, to see that people are safe, that they're cared for, and that the
28 wrongs that have happened in the past, that we can help people as much as we can to be
29 able to live the rest of their lives carrying that damage that was done, but trying to know
30 that they will be safe in the future and our children will be safe.

31 **Q.** And just to follow that point, and again shortly, it's so obvious to us all, isn't it, that the
32 abuse happened so long ago, but still lives –

33 **A.** Sure.

34 **Q.** – in those who are fortunate enough to be alive, so the pain is still hurt.

1 Do you see that survivors in particular want the Catholic Church as a whole to be
2 responsible for this in terms of the healing, the recompense, the redress for them? Do you
3 understand that?

4 A. I do understand that, yes.

5 Q. And that they are not concerned with the niceties of whether this is a religious or a diocese,
6 whether it's a Bishop or a Provincial, they want to be healed?

7 A. I understand that.

8 Q. And do you think the Catholic Church of New Zealand is prepared to step up and do its part
9 towards that?

10 A. Well, I hope so, and this is why we asked to be part of this.

11 Q. Yes?

12 A. So, I think that's – we knew that in doing that we were coming with all our history and our
13 past, so as a Bishop and as one for the future, I'm saying yes.

14 Q. Thank you. Thank you for that. And thank you for providing your evidence, for coming
15 along and for making yourself available for questioning, it is much appreciated. It's
16 important that everybody has an opportunity – that you have an opportunity as the church
17 to explain the position and that survivors have an opportunity to see you doing that. And
18 we are grateful that you have done that for us today.

19 **CHAIR:** We will take the adjournment.

20 **MS GLOVER:** 15 minutes.

21 **CHAIR:** 15 minutes, thank you.

22