ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

Public Hearing - Case Study 29
(Day 153)

Level 17, Governor Macquarie Tower
Farrer Place, Sydney

On Wednesday, 5 August 2015 at 10am

Before	
The Chair:	Justice Peter McClellan AM
Commissioner:	Professor Helen Milroy
Counsel Assisting:	Mr Angus Stewart SC

Transcript produced by DTI

MR STEWART: As your Honour pleases, the first witness today will be Mr Vincent Toole.

THE CHAIR: It's necessary for you to be sworn. Will you take an oath on the Bible?

MR TOOLE: Yes, certainly. Just excuse my voice, there are some problems.

<VINCENT JOSEPH TOOLE, sworn: [10.04am]

<EXAMINATION BY MR STEWART:

MR STEWART: Q. Mr Toole, will you state your full name, please?
A. Vincent Joseph Toole.

Q. Do you have a copy of your statement dated 10 July 2015 to hand?
A. Yes, I do.

Q. Are there any amendments or corrections you wish to make to the statement?
A. No.

Q. Do you confirm the statement to be true and correct?
A. Yes.

MR STEWART: I tender the statement.

THE CHAIR: Mr Toole's statement will be exhibit 29-023.

EXHIBIT #29-023 STATEMENT OF VINCENT JOSEPH TOOLE DATED 10/07/2015

MR STEWART: Q. As I understand it, you were baptised as a Jehovah's Witness in 1972; is that correct?
A. Yes, that's correct.

Q. How old were you then?
A. I was born in 1948, so probably 23, 24.

Q. How did you come to be a Jehovah's Witness?
A. I was - I moved into a unit with someone who was having a Bible study. I'd been brought up quite religiously. I'd attended a religious boarding school for five years prior to that, but after I left school

I basically stopped attending church and, later on, when I moved into this unit, this man was studying. I'd never really read a Bible before.

Q. Mr Toole, sorry to interrupt you. I'm just looking for an a short answer. So you were introduced through someone you were sharing with?
A. Yes, I studied and was satisfied that this was the truth and wanted to dedicate my life to serve God.

Q. You were appointed as an elder in 1977, as I understand it; is that right?
A. Yes, that's correct.

Q. As I understand it, between being baptised and being appointed an elder, typically there would be no formal, full-time training that someone would go through before being appointed an elder?
A. No formal training, no.

Q. So it would be through involvement in the various activities of the congregation and the teaching and so on; is that right?
A. No tertiary education or anything like that. It was just involvement in the church, application, and involvement as such.

Q. You were a circuit overseer from 1980 to 1989; is that right?
A. Yes.

Q. From 1989 you commenced working at the branch headquarters; is that right?
A. Yes, that's correct.

Q. Would it be right to refer to that as Bethel?
A. Yes, that's another term.

Q. And that term is also used to refer to the world headquarters in Brooklyn; is that right?
A. Yes, that's correct.

Q. When you commenced working at branch headquarters, is it then that you commenced your legal studies?
A. Yes, not long after I arrived there.

Q. Did the branch committee, or did the Jehovah's

Witnesses, then sponsor your legal studies?
A. Yes.

Q. In 1993 you completed those studies and were admitted as a solicitor; is that right?
A. Yes, that's correct.

Q. Since then you've done legal work for Jehovah's Witness Australia or Watchtower Bible & Tract Society Australia on a voluntary basis; is that right?
A. Yes, that's correct.

Q. Since 1995, you have also had your own legal practice under the name Vincent Toole Solicitor?
A. Yes, that's correct.

Q. Does that legal practice do independent work outside of Jehovah's Witness work, or do you only do Jehovah's Witness work through that practice?
A. Primarily just Jehovah's Witness work, but I've done work for my family and other people.

Q. But am to I understand that you don't run it as a commercial law practice?
A. Not as a commercial practice, no.

Q. Since 2010, as I understand it, you've had oversight of the legal department in Australia; is that right?
A. Yes, that's correct.

Q. So you've been involved in the legal department, am I right, since 1989, and have had oversight since 2010?
A. That's correct.

Q. I take it, then, you also live at Bethel?
A. Yes, I do.

Q. Your daily needs are provided for as a member of the worldwide order of special full-time servants of Jehovah's Witnesses; is that right?
A. Yes, that's correct.

Q. In much the same way as Mr Spinks described yesterday?
A. Yes, exactly.

Q. If I can refer to your statement, and starting at paragraph 13?

A. Paragraph 13?

Q. Yes. You say:

All elders serving in congregations of Jehovah's Witnesses throughout the world have been directed to contact the Legal Department in their local Branch Office as soon as they learn of an allegation involving child [sexual] abuse.

So am I to understand that there is a uniform process set out which applies throughout the world?
A. Subject to the fact, of course, that many branches mightn't have a legal department, but they would contact the branch there. But in Australia we do have a legal department.

Q. That process, which is applicable throughout the world, is determined by the Governing Body?
A. It's a general direction throughout the world, as I understand.

Q. Yes, and it's a general direction throughout the world determined by the Governing Body?
A. Well, as far as I understand, it's a direction that elders have been given.

Q. Yes, but, Mr Toole, you seem to be trying to avoid what I understand to be quite well accepted, which is that it's the Governing Body that determines that direction?
A. That's what I understand, yes.

Q. And that is typical, is it, of all Jehovah's Witnesses policies and procedures - that is, they are determined by their Governing Body and made applicable throughout the world?
A. Yes, the general policy would be determined by the Governing Body, but the application in the local setting would depend on the branch committee applying it to the relevant things in their local area.

Q. Yes. Whether a policy is actually followed in practice is a separate question, but dealing with the setting of what the practice is supposed to be, that is set by the Governing Body?
A. That's what I understand.

Q. Coming to the question of responses to child sexual abuse allegations specifically, the Australia branch then follows the guidelines of the Governing Body; is that right?
A. The guidelines. But they will apply it in any way that needs to be adjusted in the local - for the local area.

Q. Let's just be clear on that. The particular application may vary from case to case; is that right?
A. Yes, yes.

Q. But that application is intended to be within the parameters of the policy or procedure itself; is that right?
A. Yes, I'd agree with that.

Q. It's the case, is it not, that the Australia branch office will not itself set any practice or policy to apply normatively, unless it's been approved by the Governing Body?
A. In terms of policy, they will adjust it to the local circumstances. So, for example, if there was no legal department in Australia, for example, that direction wouldn't apply, so they'd have to adjust it to whatever the local situation was.

Q. Well, there wouldn't then be a direction from the Governing Body that the legal department should be contacted. In a country where there was no legal department, the direction from the Governing Body, which the branch would then set, or apply, would be that the branch office be contacted?
A. Yes, that's right.

Q. Is there a constitution by which the Jehovah's Witnesses internationally are governed?
A. I don't think I could answer that, but my understanding, it's clearly just what the Bible has to say.

Q. But seeking to address it, for a moment, from a legal perspective, what I understand from the statements is that one has a Governing Body situated in New York, but having an operation, I suppose, throughout the world, and then branches in various geographic areas and, also, congregations --

A. Yes.

Q. -- within the jurisdiction of each branch. That's right so far, isn't it?
A. Yes.

Q. And in Australia it's said that each congregation is, in a legal sense, a voluntary association; is that right?
A. Yes.

Q. Yet the congregations take their direction and instructions from the branch, which, in turn, takes its direction and instruction from the Governing Body - that would be right factually?
A. Yes, I think that's a reasonable --

Q. So, now, by operation of what legal rule or norm does that occur? In other words, by what legal rule or norm does the congregation take its direction from the branch? Is there a constitution, a contract, a corporation? Is there something that does it?
A. Not that I'm aware of.

Q. Is it not the case that the Governing Body sets out what the roles and responsibilities of all the various structures are and their relationship to each other, and the whole system, internationally, is operated in accordance with that?
A. You're really talking to me about an area I don't have much experience in, in terms of that. I just work in a local branch. But I think, in general terms, what you're saying, I would understand to be correct.

Q. Is there a manual or a document published by the Governing Body which sets that out - what its responsibilities are, what the branches' responsibilities are, and so on?
A. I'm unaware of any such document.

Q. So is there not, to your knowledge, a document which sets out the responsibilities of each of the Governing Body committees, for example?
A. I have no knowledge about that whatsoever.

Q. And a document, perhaps, which sets out how members of branch committees are to be appointed?
A. I have no knowledge about that. I've never seen or

heard of such things.

THE CHAIR: Q. Can I just understand: are you the senior lawyer advising the Jehovah's Witnesses in Australia?
A. I'm not sure about "senior", but I look after the legal department. But I'm being asked questions about things that I really haven't been involved in at all.

Q. I know, but I'm trying to get to understand your relationship to the management structure in Australia and in New York, you see. Normally, in an organisation, if there's a legal department and a head lawyer, then that person's services would be used to advise in relation to documents - the meaning of documents, the drafting of documents and so on.
A. Nothing - I've never been involved in any of the document types of situations that I'm being asked about, at all.

Q. Who, in the branch here, holds the reins?
A. The branch committee.

Q. The committee. How many people are on that committee?
A. Probably nine or 10, but it might be - it's around that figure. I'm not actually certain, but it's somewhere around that figure.

Q. Is that their job, to be members of that committee, or do they have other roles in the organisation?
A. They are appointed members of the branch committee. They collectively serve together, but they would have administrative roles at the branch doing different things.

Q. At the branch, though?
A. Yes, at the branch.

Q. They are all people who work at the branch?
A. Yes, they are at the branch.

Q. Is one of them, as it were, the head of the committee?
A. I think it's first among equals. I don't think anyone is head of the branch, as such, but Mr O'Brien cares for the coordination of that particular branch committee. But I don't think anyone has greater authority or lesser authority. If you're a member of the branch committee, I understand your an equal member of the branch committee.

Q. The next step in the hierarchic organisation of the Jehovah's Witnesses from the branch committee is to where?
A. I think the branch committee goes back to the Governing Body.

Q. In New York?
A. In New York. That's as I understand it.

Q. Do you know whether they have to provide a report to the Governing Body?
A. I've never been on a branch committee. I don't know what happens there.

Q. You mean you work as the Jehovah's Witnesses' lawyer, but you have no knowledge of what --
A. I have never been involved in a report given that way, because it's not a legal matter. Nothing has ever been discussed with me about that.

MR STEWART: Q. The branch committee members, Mr Toole, are appointed by the Governing Body; is that right?
A. I understand that's the position, yes.

Q. You say your understanding is that the branch committee members are equals. One of them is actually designated coordinator, is that not right?
A. Yes, I think he's the coordinator of the - of the branch committee.

Q. And that designation or responsibility also is an appointment by the Governing Body?
A. I believe so, but I'm not absolutely certain - but I believe so. I'm sorry I don't have a lot of information on that, but I just - I've never been involved.

Q. There are other copies coming shortly, but I'd just like to show you - there's a copy for you - a document. You see it's headed "Branch Organisation Effective December 15, 1977, Revised February 2003". It says:

This material in Branch Organisation --

being the name of the publication --

should not be copied or duplicated except

with the permission of the Branch Committee.

It's published in the USA, I understand, by the Governing Body. Have you seen this publication before?
A. No, I have not.

Q. Do you know if this is the current edition?
A. I would have no idea.

MR STEWART: Your Honour, I call for any revision or subsequent edition to the publication "Branch Organisation".

MR TOKLEY: Until just then it wasn't called for. I will have a look.

THE CHAIR: I am sorry?

MR TOKLEY: I'll have an inquiry made about it. There are revisions.

THE CHAIR: More than that: we'd like to know the answer.

MR TOKLEY: Of course, your Honour. Without wishing to interrupt my learned friend's line of questioning, Mr O'Brien is coming to give evidence today. It may be that some of these questions are best directed towards him.

THE CHAIR: We'll let counsel take his course.

MR TOKLEY: Of course, your Honour. Understood. One final thing, if I may, could I ask for a non publication order in respect of that? I would assume that it is a very confidential document.

THE CHAIR: You'd have to persuade me of that, Mr Tokley. The Royal Commission, as far as possible, operates in public.

MR TOKLEY: Understood, your Honour.

THE CHAIR: Presently, I can't see why this document should not be a public document. You'd have to persuade me.

MR TOKLEY: Thank you, your Honour. I might take

instructions over the morning break on that.

MR STEWART: I haven't tendered it yet, your Honour.

THE CHAIR: I think we assume it's coming.

MR STEWART: Yes, it is. I'm grateful to my learned friend in relation to what he says about Mr O'Brien, because, really, that underscores the point that we really need, if there is such a document, a revision or updated version of this during the course of the morning, so that Mr O'Brien's evidence later in the day can serve some purpose.

THE CHAIR: Do you seek to be tender it now?

MR STEWART: There is no need to tender it right now, your Honour. I'll allow my learned friend to take his instructions with regard to a publication order or otherwise.

THE CHAIR: All right.

MR STEWART: Q. Can I take you, Mr Toole, to paragraph 15 of your statement?
A. Paragraph 15?

Q. Paragraph 15, yes. That's Ringtail 03. You'll see you say:

> *Where the law does not require ministers of religion to report allegations of child abuse, the Legal Department has been instructed to direct the elders to clearly explain to the victim and/or their families that they have an absolute right to report the matter to the authorities and that they should feel completely free to do so.*

So you say there, that "the legal department has been instructed to direct", and then you go on to say what you've been instructed to direct. Who gave that instruction?
A. Well, I understand that's just a branch committee direction in harmony with the directions we've been given.

Q. Let's just clarify the terminology there. You say,

"the legal department has been instructed", so is that the case - the legal department has been instructed to direct, as you set out in that paragraph?
A. In harmony with the direction we were given in that previous letter about reporting, my understanding clearly is that's the direction that we are expected to give whenever we receive a call in relation to this matter.

Q. So it's the branch committee that has given that instruction to the legal department?
A. I understand, in harmony with that letter.

Q. In harmony with which letter?
A. The letter that is referred to just a little earlier, that one there, 1 October 2012.

Q. That's at tab 124.
A. And that certainly is our practice.

Q. Can you identify where, in the letter, the legal department is instructed or directed to direct elders to clearly explain to the victim and/or their families that they have an absolute right to report the matter to the authorities?
A. No, I can't, but it's in the spirit of what's being discussed there. It has always been my understanding that that's the direction that we're to give.

Q. Well, Mr Toole, just to be clear, you say in your statement that the legal department has been instructed to do something. I understand, now, you are shifting from that and you're saying that that is in the spirit of this letter - it's not an instruction; is that right?
A. We don't have a written instruction to do that, no, if that's what you're asking.

Q. You don't have any instruction, do you?
A. We've been informed that that's what we should be advising people when they call.

Q. Isn't it the case that the legal department advises on legal obligations to report or otherwise, and then, with regard to other matters, the call from the elders is then passed on to the service desk?
A. I've been taking these calls pretty well exclusively now for the last two or more years. The direction I give specifically when someone calls in - we discuss the matter

as far as any mandatory reporting obligations that may apply, and then I make a particular point. I say - if the mandatory obligation doesn't apply in a certain State, I say, "I want you, two elders, to go back to the victim or their family and explain to them very clearly that they have the absolute right to be able to go and report this matter to the authorities. That's their privilege and they need to understand that, and that you will support them in whatever decision they make." That's the instructions I give every time.

Q. So that's your practice, as opposed to being something you've been instructed to do?
A. Well, they don't - I haven't received formal instructions, that's what I'm saying, but that's what I understand clearly we have been asked to do.

Q. You say you've done this exclusively for, did you say, two years or two and a half years?
A. Yeah, approximately two years, I've been taking the calls myself.

Q. These are calls about allegations of child sexual abuse?
A. Yes.

Q. And how many such calls have you taken in that period, would you estimate?
A. I couldn't tell you, but we probably get three, sometimes four, a month.

Q. In respect of any of those, did you take the view that mandatory reporting requirements applied and, therefore, that the elders concerned had an obligation to report?
A. Yes.

Q. And in respect of which States would those have been?
A. South Australia and Victoria.

Q. I'd like to refer you to the Shepherd the Flock of God handbook at tab 120 and, in particular, at page 133, paragraph 22, Ringtail 134, under the heading "Taking Brothers to Court". You are familiar with this section of the handbook, I take it, Mr Toole?
A. Reasonably familiar.

Q. There is a strong scripturally based message here, in

these paragraphs 22 and 23, isn't there, against the referral to secular authorities of disputes?
A. This is entirely civil matters; nothing to do with criminal.

Q. This is what I wanted to come to. What is the basis for you saying that that is entirely civil and not criminal?
A. Well, this is dealing with situations where people have personal differences - maybe there is a difficulty with work; maybe there is a situation with defamation - or situations that people may well have a dispute with each other, and so the admonition is why not apply scriptural principles to try and resolve the matter. But it has - and if you go on a little further, it actually speaks about there are some things that even though they are personal matters, civil matters between individuals, they are the kind of thing that the congregation has no authority or no jurisdiction to be able to adjudicate on - things like custody matters, probate matters and things like that. So it's just dealing with issues that exist between individuals, but certainly not criminal matters in any way, shape or form.

Q. You would appreciate that if not in all, certainly in most circumstances that might give rise to a criminal charge, a civil wrong would also have occurred which might give rise to a civil claim or dispute?
A. Well, that's potentially possible, yes.

Q. Well, let's be more specific. In the case of a sexual abuse allegation, that may give rise to both a criminal charge and a civil claim?
A. All I can tell you is that that particular scripture does not prevent --

Q. It's going to help us if you just answer my question. I'm not talking about the scripture. I asked you a specific question which, between you and I, as lawyers, we should be able to discuss and find common ground quite easily.
A. Sure.

Q. What I said to you is: in the case of a sexual abuse allegation, the facts of the allegation may give rise to both a criminal charge and a civil claim.
A. Yes, potentially.

Q. So a person who has been abused would have an issue or a dispute with their abuser, which might give rise, in the law, to matters to be resolved - one criminal, and one civil?
A. Potentially, yes.

Q. Is it not the case, then, that, absent any clear guidance to the contrary, publishers who have access to information like this would understand it to mean that their dispute which arises from a sexual abuse allegation is not to be referred to the courts --
A. No.

Q. -- whether that's the criminal component or the civil component?
A. No, I completely disagree.

Q. Did you follow the evidence in the Commission last week?
A. Yes.

Q. Particularly of the two survivors, [BCB] and [BCG] who gave evidence?
A. Yes, I did.

Q. You would have heard [BCB] give evidence that she was taught that these passages applied equally to criminal complaints?
A. I did hear her say that.

Q. If I can take you to paragraph 16 of your statement, the quote that you have in that paragraph says that there is no obligation on elders to report if the law does not oblige it?
A. This is paragraph 16, did you say?

Q. Yes, that's right. So:

Where the law does not obligate elders to report cases that come to their attention, there is no need for them to do so, but if the matter becomes known to the authorities [they must cooperate] ...

And so on - well, it doesn't actually say that:

... they are required to disclose information they have in their possession, they will do so unless they can claim ecclesiastical privilege.

As I understand it - and since you're the one who advises on reporting obligations, perhaps you can confirm - within the Jehovah's Witness view of things, in the absence of a legal obligation to report to authorities - whether police or child protection authorities - there is no moral obligation to report; is that right?
A. Elders do not have the scriptural authority to take away the right of an individual to decide whether or not they want to pursue the matter or not. They have the right to make a decision in terms of their own best interests.

Q. You'll appreciate, Mr Toole, that there are often circumstances in which an individual can't exercise such a right, such as a child, for example, whose parents, for whatever reason, don't exercise that right of reporting on their behalf?
A. Well, their guardian/parent would be perfectly entitled to decide what's in their best interests.

Q. And if their guardian/parent did not report, or told the elders, "I'm not reporting", by reason, for example, that she doesn't want the abusing father to be charged and potentially go to gaol, then the child remains at risk. Would that not, within the Jehovah's Witness view of things, give rise to a moral obligation on the elders to report in order to protect the child?
A. That's why they contact the service department and discuss the whole situation and work out how best to be able to protect the child. There might be a whole lot of other avenues that the service department, in conjunction with the local elders, can discuss about how that's to be done. But at the end of the day, if you go back to an article that we have, published in 1985, it says that when you hear a report of child abuse, whatever is necessary to be done needs to be done to protect the child.

Q. So would it be right that, in some circumstances, there would be a need for elders to report to the authorities?
A. There may well be, yes.

Q. Do you see, then, where this quote says there is no

need for them to do so:

> *Where the law does not obligate elders to report cases that come to their attention, there is no need for them to do so ...*

A. Where are you reading from?

Q. In the quote, in italics:

> *Where the law does not obligate elders to report cases that come to their attention, there is no need for them to do so ...*

So that is, indeed, a discouragement to elders from reporting, isn't it?
A. No, I think you're possibly reading it a little in isolation. What that's saying, in terms of mandatory reporting obligations, if there is an obligation to report, the elders report. If they don't have an obligation to report, well, then, as far as their legal obligation is concerned, then they have no requirement to report. It's not discussing leading people in or out of danger. It's just simply stating what their obligation is under the law.

Q. Could I show you tab 131A, which is a very recent document, 6 November 2014, a letter from the branch to All Bodies of Elders, and it's headed, "Procedures when legal issues are involved". You were probably involved in drafting this letter, were you, Mr Toole?
A. No, I was not.

Q. But you're familiar with it, I take it?
A. Reasonably, yes.

Q. Perhaps we can go to the third page, paragraph 14, which deals with "Handling reports of crimes":

> *When the elders learn of alleged criminal activity on the part of one of Jehovah's Witnesses or someone associated with the congregation as the accused or the victim, they should immediately call the Legal Department.*

It goes on. You can read it to yourself if you like, but I think it's the seventh line down on the left-hand side it

starts:

Strict confidentiality ...

Do you see that?
A. Yes.

Q.
Strict confidentiality must be maintained to avoid unnecessary entanglement with secular authorities who may be conducting a criminal investigation of the matter.

A. Yes.

Q. Just in relation to that, this approach presupposes that any report of criminal activity is confidential - that would be right?
A. Can you restate the question, please?

Q. What is stated here presupposes that an allegation of criminal activity is confidential?
A. No, it presupposes that, as far as the elders in dealing with the matter, information is confidential, but the other aspect, they don't want to get involved or in any way disturb a police investigation or situation like that.

Q. Of course, that confidentiality then, as I understand it, is confidentiality within the congregation; is that right?
A. Well, it's within - the confidentiality within the person who is actually hearing it, in fact - it would be the elder dealing with the matter, if they were dealing with it.

Q. Other than as provided for, to have to tell the Body of Elders, where that's required, that information would not be passed, or should not be passed, by that elder to others in the congregation?
A. No, they would keep it confidential.

Q. But there would be no breach of that confidentiality in the elder reporting an allegation of criminal activity to the authorities, would there?
A. I guess that would depend on the circumstances, but - in actual fact, they are breaching a confidentiality to do that, but that may well be necessary in certain

circumstances.

Q. I understand in certain circumstances it may be, but it's not necessarily so. In other words, if someone reports to an elder that they saw some criminal activity - let's say a robbery or something - absent a specific request from the person reporting that it be kept confidential, there would be no obligation of confidentiality on the elder, surely
A. Not in relation to that matter, unless they were handling it themselves. They only have second-hand information there.

Q. Passing information to the authorities would not, as it is put there, produce an entanglement with the secular authorities; it would be merely making a report to the secular authorities?
A. If they were simply passing on that information, no, it wouldn't be - they are passing on a comment that they have heard from someone else. Isn't that what you're asking?

Q. Yes, that is what I'm asking. So in the case of a sexual abuse allegation, you would accept it's the victim's confidentiality?
A. Yes, and their right to be able to preserve or decide what they want done about it.

Q. And if the victim does not require of the elder to not report, then there is no breach of confidentiality in reporting?
A. If the victim was quite happy for the elder to report, there'd be no reason why the elder wouldn't - maybe even accompany the parent along to make sure that the report was made. There's no reason why that wouldn't be done. For example, in that case - one of those reporting situations that I mentioned in Victoria, that's exactly what was done. The two elders went to the police, spoke to the parent. The parent and the two elders went to the police and reported the matter.

Q. If we look at paragraph 15, this question of confidentiality goes a little further. Do you see paragraph 15. It's in relation to "Search warrants":

> *Elders should never give consent for anyone to search a Kingdom Hall or any other place*

where confidential records are stored. Conscientious elders do all they reasonably and peaceably can to preserve the confidentiality of the congregation in harmony with the principle set out in Acts 5:29.

You are familiar with what that principle is, are you, Mr Toole?
A. 5:29.

Q. "Peter and the other apostles said: 'We must obey God as ruler rather than men'", are you familiar with that?
A. Yes.

Q. Isn't that a clear message that there are circumstances in which God's law, or rule or requirement, will override what the authorities may require?
A. That's possible, but I wonder if we could go back to I think it's paragraph 4 of this document - I think it's 4. Let's see. Yes. There it says:

Direction on handling child abuse matters can be found in separate correspondence. However, we are pleased to provide consolidated direction on handling other congregation matters involving legal issues.

See, these are just general legal principles, but it's not specifically dealing with child abuse matters.

Q. I accept that. But dealing with it at the level of general legal principles, you will accept that what is said here, in a reliance on Acts 5:29, there is a clear message sent to people, which is to not cooperate with secular authorities unless you have to?
A. No. The principle of 5:29 is that we will obey the authorities in whatever they ask us to do, but there is a relative subjection in the sense that we won't do what they ask us to do if they ask us to break God's law. I think Mr Spinks basically touched on that fairly clearly yesterday. So if, in fact, there is no basis to be able to retain information, we willingly will provide it. If there is a subpoena to ask for documents, we'll provide it. If there is a protection to that document, then, that might be a different situation, but if there is no legal

protection - and when it comes to child abuse matters, you may or may not be aware that ever since 1999 we've cooperated with the authorities, as far as I understand, on every instance where the authorities have asked for information. Elders have made statements, they have appeared as witnesses, documents have been produced when they have been requested. We have been absolutely open every time we've been approached by the authorities in relation to this matter.

Q. I'm just addressing this right now at the level of the message that is sent to people reading Jehovah's Witness publications, including elders and publishers. Let me give you another example. If we can go to tab 127, and starting at the first page so you can see what the publication is, it's Keep Yourselves in God's Love. It's published in 2008 and, again, this is a November 2014 printing of that publication, published by the Governing Body. If we can look at page 59, Ringtail 16, paragraph 18, that deals with the concept of "Taking up 'The Complete Suit of Armour'". You'll see it says:

> *Those who keep themselves in God's love also enjoy spiritual protection from Satan, who wants to deprive Christians, not just of happiness, but of everlasting life ... "We have a struggle," said Paul, "not against blood and flesh, but against the governments, against the authorities, against the world rulers of this darkness, against the wicked spirit forces in the heavenly places."*

Then there is a scriptural support for that:

> *The word "struggle" suggests that our fight is not long-distance - from the safety of a hidden bunker ...*

and so on.

> *Furthermore, the terms "governments," "authorities," and "world rulers" indicate that attacks from the spirit realm are highly organised and deliberate.*

I'm suggesting to you that this sends out a very clear

message that adherence to the Jehovah's Witness system of beliefs should be sceptical of secular authorities and not cooperate with them, unless they really have to?
A. I completely disagree.

Q. How are we to understand this?
A. We're talking about spiritual things in terms of Satan, demons, things that are really trying to attack your faith. There is a battle. To be able to preserve morality and preserve a code of behaviour that is acceptable to Christians is a battle in today's world.

Can I just again point you to something so that it really clarifies this issue?

Q. Of course. I would welcome that.
A. It's in Romans chapter 13. It was read yesterday. This is the message that all Christians, Jehovah's Witnesses, take really seriously. Chapter 13, and it's talking about the governments, it's talking about the secular authorities here, it says, chapter 13 verse 1:

Let every person be in subjection to the superior authorities, for there is no authority except by God; the existing authorities stand placed in their relative positions by God. Therefore, whoever opposes the authority has taken a stand against the arrangement of God; those who have taken a stand against it will bring punishment against themselves. For those rulers are an object of fear, not to the good deed, but to the bad. Do you want to be free of fear of the authority? Keep doing good, and you will have praise from it; for it is God's minister to you for your good. But if you are doing what is bad, be in fear, for it is not without purpose that it bears the sword. It is God's minister, an avenger to express wrath against the one practising what is bad.
There is therefore compelling reason for you to be in subjection, not only on account of that wrath --

that's the authority of the government or the secular authorities --

but also on account of your conscience.

So Christians are being told that they are duty-bound to be obedient to the governments.

Q. But simultaneously they are being told they are in mortal struggle against governments and authorities.
A. Yes, but --

Q. You see. This is the difficulty, Mr Toole: I accept that there are very clear scriptures like that, but it's the case, too, isn't it, that there are equally clear scriptures reproduced and referenced in your publications which say just the contrary?
A. I think if you read the whole of that in context and look at it, it's quite clear what it's saying, but one thing you could never ever cite against Jehovah's Witnesses is that they are ever encouraged to disobey the law. We take it really seriously. In fact, if we weren't going to be obedient to the law, we'd be in contravention of what it says there in Romans chapter 13.

Q. I'm not going to take up the invitation to pursue that, because that will really divert us. I'll leave that for now with the suggestion I've made to you and your response to it.
A. Thank you.

Q. In paragraph 21 of your statement, you say:

The Legal Department is not involved in managing the risk of child sexual abuse within the Jehovah's Witnesses Church.

That's, as I understand it, because you advise on the legal obligations; is that right?
A. That's right.

Q. Such as whether to report --
A. That's as far as the legal department goes.

Q. Earlier you said it goes one step further: you, as a practice, make it clear to the elders --
A. Yes, yes, what we discussed.

Q. Just dealing with mandatory reporting requirements,

you set out in your statement how, currently, the position of the law is that mandatory reporting requirements vary from State to State and Territory to Territory?
A. I missed the first part?

Q. I'm moving now to deal with the question of mandatory reporting requirements.
A. Yes.

Q. You have set out in your statement that, insofar as the law is concerned, those requirements vary across the States and Territories of Australia; is that right?
A. Yes.

Q. I would take it, then - and I'm asking you - that that is burdensome on an organisation such as yours, to keep track of the differences in each State and have to advise accordingly?
A. Yes.

Q. Whether it's achievable or not, of course, is another question entirely, but I take it you, as a lawyer - the senior lawyer in the organisation - would welcome it if the requirements across the States and Territories were made uniform?
A. Yes, I would.

Q. With regard to confessional privilege which you mention in various places, but, for example, let's look at your paragraph 29.
A. Paragraph 29?

Q. You'll see in 29(a) you're dealing with South Australia and you say:

> *... a number of nominated persons in various professions, including ministers of religion ... are required to report ...*

Then four lines down you say:

> *... provided that the suspicion is formed in the course of the person's work or in carrying out their official duties with the exception of disclosures made in the confessional.*

Am I to understand there that, leaving aside the specific wording of the law in question, in South Australia the position is that there is an exception for disclosures made in a confessional setting; is that right?
A. Yes.

Q. Then in 29(b), in relation to Victoria, equally in the sixth line you say:

> *This obligation does not apply if the belief was obtained in a religious confession.*

A. That's correct.

Q. I think I took you to the paragraph earlier in another document that referred to minister/communicant privilege. It is really that that I'm addressing in the Jehovah's Witness context. You, as I understand it, advise elders on their obligations under these provisions?
A. Yes.

Q. So you would be involved in advising when this confessional exception is available to them or not?
A. For the last 15 years, even if it was a confession, if the authorities approached the elders seeking information, they have completely cooperated. So there's been no claim for confessional privilege at all during that period.

Q. So do I understand from that, that within the Jehovah's Witness view of things, an obligation of confidence that arises from a confession being made is one that is overridden by any requirements of the law?
A. That's the position we've taken.

Q. Not so in some other religions where a priest, who receives a confession in the requisite circumstances, would face gaol before breaking the confidence of that confession?
A. Yes, that's the situation.

Q. Within the Jehovah's Witness understanding of things, what would be the elements or the requirements for something to amount to a confession?
A. Well, someone confesses.

Q. As simple as that?

A. Well, I guess you can have different settings, but if somebody came to me personally and confessed, I'd consider that as a confession. If it was a serious matter that we were dealing with and there was a judicial committee and the person confessed to what, in fact, was some wrongdoing, or whatever, that would be a confession.

Q. Let me clarify it. In the first example you gave, if someone came to you, I take it that's you as an elder?
A. Yes, that's what I mean.

Q. So it would need to be to an elder or - an elder of the organisation, not someone else - would that be one of the elements?
A. Yes, that would be one of the elements.

Q. And would another element be that the confession was made confidentially; in other words, that the person made it in circumstances where a confidence attached to it?
A. In circumstances of confidence, yes, that would be the case.

Q. Would that include in circumstances where the elder to whom the confession was made was not going to pass it on to others?
A. Well, that would depend upon the usage, for example, of the church. For example, if, in fact, a confession had been made about a very serious matter, the usage of the church in the context of that would be to mention to the Body of Elders that a very serious matter - broadly the nature of that wrongdoing, without any details. Then the Body of Elders would appoint a committee to meet with that individual. They would then all collectively hear the confession.

Q. And that might then lead to a judicial committee?
A. Yes, or that would be - yes.

Q. And that would lead to a report to the branch?
A. Yes, and the report to the branch would simply set out - that would be handled in the service department. They would simply, under the same cloak of confidentiality, take that, put it in a file, if it was, for example, something, and then it would be filed there, "child abuse", permanently.

Q. And available for people having the requisite

authority or responsibility in the branch to access in years to come?
A. In terms of the service department, those that were charged with that, yes, that would be the usage of the church - usage of a confessional structure, yes.

Q. And the details would be filed, also, in the congregation files?
A. Yes, basic details, yes. Because now, if - are we talking about a child abuse matter or just generally?

Q. Well, let's be specific about child abuse; you might as well take that as an example?
A. Well, that would be - the branch now, in the service department, retains all of the files in relation to that. The congregation there, if they dealt with it, have sufficient just to be aware of what had happened. But there would be a notation there, but it would be retained in the service department.

Q. Is it not the case that some report has to be put in a sealed envelope and kept in a congregation file?
A. Yes, a brief little report. Yes.

Q. Is the purpose of keeping it in the files so that it can be referred to in the future, if it needs to be?
A. Yes, if that was the case. Yes.

Q. That may be elders some years down the track who had no involvement earlier on?
A. Well, the direction is that anyone that opens that should be one of the people that were involved in handling the matter. That might not always be possible, but that's the --

Q. What I'm getting to, Mr Toole, as you will have seen, is really the confidentiality of the confession in the case of the Jehovah's Witnesses is very qualified, isn't it? It can end up being a lot of different people who end up having access to that information?
A. That's possible, but in view of the position we've taken in this country as far as disclosing information, if the authorities seek information about the particular confession in relation to child abuse matters, we have been forthcoming and we've waived any privilege that might otherwise have existed anyway.

Q. Of course, that may not always be the case. There may be circumstances in which you change the position?
A. That's potentially the case, yes.

Q. Dealing with the question of Working With Children Checks or analogous checks, I understand that if someone is nominated to be an elder, then a Working With Children clearance is sought; is that right?
A. Well, they normally would have had one before they were nominated as an elder, because even as a ministerial servant they are required to have one before they can serve in that capacity in those States where it's a requirement.

Q. What happens when someone is nominated, or there is an intention to nominate someone, and they can't get that clearance?
A. They are not appointed.

Q. The efficacy of that system, of the Working With Children Checks and analogous checking systems, of course, depends upon the authorities having a database of information with regard to sexual offences; is that right?
A. Yes, I understand so.

Q. So that they can then reference that database to decide whether a clearance will be given in a particular case, or not given?
A. Yes.

Q. So the efficacy of the system then depends on what information is furnished to the authorities to be captured in the database?
A. I - that's a corollary, yes, I presume.

Q. What I suggest is that if the Jehovah's Witnesses don't systematically report offenders within their midsts, then that information does not get to the authorities and it undermines the efficacy of the system?
A. To some degree, but, on the other hand, to report the matter when they're not required to, if the - if the people involved, who are the victim in this instance, don't want it reported, you've got two contrary principles competing with each other. In actual fact, under those circumstances, to go and report it anyway, in the face of someone saying, "I don't want it reported", when there was no requirement for the minister to report it, basically means you're walking all over the right of someone to

decide what is in their best interests.

Q. We've traversed that and you've accepted that there may very well be circumstances in which a person is not in a position to report, or they require reporting in order to be protected, so the blanket statement doesn't apply across the board?
A. Yes.

Q. But, Mr Toole, you'll appreciate there is a distinction between what the law may require and what is right and what is wrong. What we are really exploring here is what is the right way in which these matters should be handled, with reference to morality. What I'm exploring is, as it would appear with reference to the Jehovah's Witnesses' morality, it's not regarded as right to have a systematic system of reporting credible child sexual abuse allegations arising in your communities to the authorities?
A. The position basically is that it's not right to overturn someone's right to decide whether they want it done. Elders are simply not scripturally authorised to take over the best interests of someone's family.

Q. Yes, I think we've canvassed that, Mr Toole. There are circumstances in which the allegation a child may have will not be reported by his or her parent or guardian, and others having responsibilities within that community, such as elders, are in a position to report to the authorities and protect the child - but you won't do it?
A. We would do it if we thought it was necessary to protect the child, unhesitatingly. If I came across a situation and the only way that I believed I could protect a child that was in danger - I would have absolutely no hesitation at all in going to authorities, even though I'm not required by a mandatory reporting law.

Q. So you are saying the only reason why there has never been such a report is because those circumstances haven't arisen?
A. You're presupposing there's never been a report.

Q. That's the evidence that is before the Commission thus far.
A. I don't think you can conclude that automatically. As was pointed out yesterday, there are some - of the cases that you have, there are some 383 that have had police or authority involvement in it. The extent to which elders

may or may not have reported that, I have no idea, but I do know that, according to the figures that are produced, some 383 times the authorities have been involved, so I can't tell you --

Q. Let's just deal with the 383. That figure was arrived at by doing a search of words --
A. Yes.

Q. -- in the files for things like "police", "authority" and so on?
A. So the authorities were involved in it.

Q. Well, they may not have been, because what was actually written on the document may have said, "Do not report to the authorities"; the search would have picked up the word "authorities" and you've counted that in the 383?
A. Even so, the point that I'm making, if you divided the figure substantially, it's still impossible for me to agree that elders have never gone, because I don't know, but I do know the authorities have been involved in a number of those cases.

Q. For several weeks, now, you've had those figures and the Royal Commission's analysis of your 1,006 perpetrator files, and you've not found a single case where there was a report by the elders or by the branch, other than where there may have been a mandatory requirement?
A. Well, I haven't been looking through the cases and I haven't been looking through the numbers. All I'm saying, as a general proposition, to say it has never happened - it may well not even appear in the file to say that the elder went; it may just say that - that the authorities became involved. I don't know what the circumstances are in every case. I'm not trying to make a major point out of it at all. I'm just simply saying it's very difficult to say definitively that elders have never been involved in reporting a case, because we just don't have the facts to be able to base that on. But in terms of mandatory reporting in those files, that's not the case.

Q. You'll accept there is no evidence of elders ever having reported other than when they were mandatorily required to do so?
A. I haven't reviewed all the files, but, in simple terms, I assume - if that's the way the files read, I assume that must be correct. But I'm not prepared to

accept the proposition the elders have never been involved, when, in fact, I don't have the facts to be able to substantiate that.

Q. Just on the files, you may not have searched the files, but you've had the opportunity to do so, haven't you?
A. Well, for the last little while I've had hardly the opportunity to do anything. In responding to the requests of the Royal Commission we've been working to bend over backwards to cooperate and hardly had time to turn around. So that's why I asked someone else if they would do it. That's what they came back and said.

Q. So you did have someone search the files?
A. Well, they did exactly what you said there - on those word things on the files that you had, the figures that you gave us, yes.

Q. Yes. That's in the correspondence I tendered yesterday.
A. Yes.

Q. I'd like to take you to tab 115. You'll see this is a letter from the Australia branch, September 12, 2008, it says to the "Service Committee". As I understand that, that is to the service committee of the Governing Body, would that be right?
A. Yes, that would be correct.

Q. It was from - you'll see on the second page - Mr Mouritz and he preceded you as being the senior lawyer at the branch; is that right?
A. No, that's not correct.

Q. I apologise. Who was he?
A. This is Harold Vivian Mouritz. He's the brother of the person who was involved in the legal department.

Q. And he was a member of the branch committee, was he?
A. Yes, he was.

Q. Was this a letter you were involved in at all?
A. No.

Q. You'll see in the third paragraph, on the first page --

A. When I say "wasn't involved", I didn't write the letter; that's what I mean. There might have been some discussions with me about certain things, but --

Q. Do you remember were there, or were there not?
A. Yes, there would have been some discussion, but I just didn't draft the letter; that's all I'm saying.

Q. Okay. You'll see it says:

You ask ...

So that's to the Governing Body, "You" the Governing Body, or the service committee:

... ask about how we propose to track persons who are accused and/or disfellowshipped for child molestation and other abuse. We intend to continue doing what we have done in the past, that is, maintaining a list of such individuals along with the necessary details of what transpired. All appointments processed by the Service Department are checked against the list of names.

So there is a list of names, I take it, as referred to in that letter?
A. My understanding - this is all done in the service department, but my understanding is they simply use the case files. So they may have a list of case files, but they just use the case files that they have. That's their checking mechanism, as I understand, but I've had no involvement with that at all.

Q. So there is a list of names?
A. There's a list of cases - the cases that you've got.

Q. Well, there are a number of - there are 1,006 files. We've produced our own list. I understand there is no separate list of the files that was produced to us, but I assume that the branch office, in addressing correspondence to the Governing Body, takes care to be accurate in what they say?
A. Well, I'm certain.

Q. And would not say that there is a list of names, if

there wasn't a list of names?
A. I assume they are just - I've asked the question of the service department and that's what I have been told, that they simply use the case files. So they possibly have a list of the case files they've got. That would be fairly logical. But beyond that, I can't help you, because I'm not involved in that area.

Q. So is there a list of the case files?
A. Beg your pardon?

Q. Is there a list of the case files?
A. I don't know.

Q. A subpoena was issued by the Royal Commission - it's subpoena number S-NSW-462 - on it looks like 28 May 2015, in which what was sought was in relation to specifically to this letter - this letter was identified. What was sought was, "a list of all individuals who are accused and/or disfellowshipped for child molestation and other abuse", and nothing has been produced. Are you able to explain that?
A. All I can explain is that, on the basis of that summons, we have complied - we have attempted to comply as fully as possible. My understanding is there is no list, as such. They use the case files, which is what you've got. That's what I've been told.

Q. If there is no list, as such, then the branch committee is not putting the facts to the Governing Body in saying there is a list.
A. Well, I can't say what they were putting to them. As I said, I wasn't involved.

MR STEWART: I call for the list of names referred to in this document, and perhaps my learned friend can respond some time later as to just what the position is.

MR TOKLEY: I'm happy to do so, your Honour.

MR STEWART: Q. I just want to take you specifically to the case of [BCG].
A. Mmm-hmm.

Q. And to tab 38 in volume 1. This is a letter from [BCK], and that is [BCG]'s eldest sister. It has written across the face of it:

Attention: Vin Toole
Private & Confidential.

It has a fax header of 15 October 2002 and the letter itself is dated 13 October 2002. Did this letter come to you?
A. I believe so.

Q. Do you know how it came to you? In other words, did it come to you from [BCK], or did it go to someone else and was then sent to you?
A. I don't recall, but I know [BCK] personally, so I assume it was just faxed to - to the branch office, but I can't tell you specifically how it got to me.

Q. If you read that opening paragraph where she says:

I am writing about some concerns that I have about my father ... I am concerned that he may still have contact with young children in his congregation and they may be in danger of being abused by him.

Perhaps we should just, on the chronology, understand that at the time of this letter, October 2002, [BCH] had been reinstated, having been reinstated in November 1992.
A. That's what I understand.

Q. She goes on:

I'm sure not many in his congregation are aware of his attitude toward pedophilia and may unknowingly expose their children to risk. As you are most probably aware, he has had a long history of abusing children - starting with myself when I was very young ... and even though, after learning the truth from the bible, and bringing his life into harmony with it for a time, he later allowed himself to other incidents.

And she goes on. What did you do in response to this letter, do you recall?
A. No, I don't specifically recall.

Q. Do you recall that, at that time, [BCH] was at the

Loganholme congregation?
A. I don't think I had any idea where he was at that time.

Q. But you would have been able to find out very easily?
A. Yes, I could.

Q. Do you recall whether you did find out?
A. No, I would only say what would have been my practice. If I received a letter like this, I would have taken it to the service department and then they would have dealt with the matter, because that's their - that's their role.

Q. If you look at the next tab, tab 39, this is now 10 days later, and again it's addressed "Private and Confidential" to your attention from [BCK]. Did you receive this letter?
A. Did I?

Q. Receive this letter?
A. Yes, I did, I believe.

Q. She says:

In my letter dated October 13 2002, I spoke about how my father has abused my two sisters ...

referring to the younger sisters --

[one of whom] has spoken to me about what my father did to her and because this matter has not been dealt with - I feel I have an obligation to let you know what she told me.

Then she details what she'd been told regarding a very serious sexual assault; would you agree?
A. Yes.

Q. What did you do in response to this letter?
A. Again, I don't recall, but my practice would have been just to take that up to the service department.

Q. These are very serious matters that were being brought to your attention, weren't they?
A. The letter is obviously bringing it to my attention.

Q. The underlying concern in those letters was a current concern with regard to child safety?
A. And I was also aware that there was a court case going on at that time involving the very issues that, in principle, are being raised in these letters.

Q. Did you follow up with the service desk as to what had been done - whether anything had been able to be achieved?
A. I don't recall.

Q. Mr Spinks yesterday explained that the reference on a letter to "LLC" is a reference to the legal department; do you agree with his evidence?
A. Yes, that's right.

Q. I will show you tab 40. You will see this is a letter a week or so later to "The Presiding Overseer" at the Loganholme congregation, and the reference is "LLC". I take it that came from the legal department?
A. I've seen that letter. I looked at it in the bundle. That is the symbol that I used. I don't recall writing this letter. I must have had some input into it, or it wouldn't have my symbol on top, but I don't disagree with the contents.

Q. What this letter does, Mr Toole, is it asks the Loganholme congregation to look into the position of [BCH] and to appoint two elders to approach him and inform him of various things, and that he should be asked to explain, and so on, as an investigation preceding a possible judicial committee, is that not so?
A. Based on the fact that he's supposedly - according to paragraph 2, is it? - that he's actually on the public record of pleading guilty to these charges.

Q. What this suggests, Mr Toole, is that what you did in response to the two letters is you wrote this letter to the congregation; you didn't take the letters to the service department?
A. No, I would never deal with a matter - this is a service department matter. But because it's a court case on foot, they no doubt came and discussed it with me. Maybe I produced a rough draft that was finalised, but anything to do with child abuse is service related.

Q. Mr Toole, this letter carries your reference and it

deals with legal matters. You seem to be trying to distance yourself from it and suggest that this came from the service department?
A. No, I'm not suggesting that. I'm saying it would have gone through with the approval of the service department, that's all.

Q. With the approval of the service department, but sent and signed off by you?
A. Well, I never signed - I didn't sign the letter. It would have gone through the service department, out to the congregation.

Q. Approved by you?
A. Well, if I drafted the letter, the whole of the letter, I would have been happy with it. But when it went to service, they may well have wanted to revise various aspects of it.

Q. Do you mean to say that the way in which your office runs is that there are letters with your reference on them that you didn't approve?
A. Anything at all to do with child abuse, that's dealt with by the service department.

Q. That can't be so, because this letter, and many others in the bundle here, have "LLC", or "LLD", and so on, on them?
A. Yes, that's true. That's true. But it all goes back to the service department, because they are the ones responsible for dealing with these matters. They might have had some legal input or some input from the legal department, but, nevertheless, it all goes back through there because they are responsible. We are really just assisting them in relation to what they're doing.

Q. In assisting them, this is the way forward that you were party to - in other words, writing to the congregational elders and telling them what they should do; is that right?
A. In this particular instance, that seems clearly what the letter is saying to do, yes.

Q. There is nothing in here about investigating the safety of children in that congregation from [BCH] and taking any steps that might be required?
A. No, there isn't, but it is asking them to directly

address a very serious matter.

Q. If we take a look at tab 41 --
A. Yes.

Q. -- you'll see in January of 2003 you wrote what is, on the face of it, a memorandum from you. It says:

Legal - V. Toole.

It is to the service department.
A. Yes, that's correct.

Q. So this did actually come from you?
A. Yes, no question about that; I remember that.

Q. And dealing further with this question of [BCH] and his history in the Jehovah's Witness Church - not so?
A. Yes.

Q. You conclude at the end, if we can look at page 3 - you will agree that you identify that the concern now is not about the child sexual abuse itself, but about whether [BCH] is lying about it?
A. No, I disagree entirely.

Q. Could you explain why?
A. The issue here - right at the very outset of that memorandum it spoke about some documents that had been shown to me. I don't know what they are, I can't remember, so obviously it was discussing something that had transpired from the committee up there. But what I'm saying here is the primary issue is this man is lying about abusing his daughter. This man has already admitted to abusing his daughter and now he's denying it. Like, the context of this particular memo is to show he's lying about abusing his daughter.

Q. I thought that's what I put to you, the principal issue you determined there is - it says in the last line, your conclusion:

The primary issue before the present committee is the charge of lying.

A. But you didn't actually put it to me quite way. That's not what I said - that's what you said. I said it's

lying about abusing his daughter, not just simple lying. He's actually lying about abusing his daughter. So the context - it's the lie in the context of abusing his daughter. This is really serious. This man had abused his daughter, shockingly, he had admitted it.

Q. Plural, daughters?
A. And then, now, he's compounding the whole thing by now going back and denying that he actually abused his daughter.

Q. I have to say, I find it very hard to see the lying about it as nearly as serious as the fact of the abuse itself?
A. Well, the fact of the abuse itself is incredibly serious.

Q. But, more to the point, why was this a legal matter?
A. I presume service had come and asked me some questions about it, so I sent them back that memo, really quite clearly showing this man's history, what he'd actually done, according to what the elders had said, and just making sure they were very aware of this man's shocking behaviour and his denial of all this.

Q. Because it's not clear to me, at least, why a person lying to congregational elders about conduct that he's been engaged in is a legal matter or a criminal matter?
A. I think the situation was the service department would have been very conscious of the fact that this man is in the middle of a court case, and they would have obviously come to sort of raise it in that context. But, please, whatever you do, don't conclude that this wasn't a serious matter. The context of that is this man had admitted to abusing his daughter, and now he was denying that he actually did it. He's actually compounding the treatment he'd given to his daughter.

Q. The conclusion, I suggest, is that you take the lying about it more seriously than the abuse itself?
A. Absolutely not.

MR STEWART: Those are my questions of this witness.

THE CHAIR: Does anyone else have any questions?

MS GALLAGHER: I have a few.

MS DAVID: Yes, your Honour.

THE CHAIR: I see more people rising. I think we might take the morning adjournment then.

SHORT ADJOURNMENT

THE CHAIR: Who is first?

<**EXAMINATION BY MS GALLAGHER:**

MS GALLAGHER: Q. Mr Toole, my name is Gallagher and I represent [BCB] before the Commission.
A. Yes.

Q. If I might just ask you in relation to Western Australia, are you aware of the situation as regards the concept of misprision of felony? Is that a statutory offence or does it remain a common law offence, are you aware?
A. I am aware of that, but I don't have a lot of intimate knowledge of it.

Q. You know [BCB] came from a house in Western Australia?
A. Yes.

Q. The situation in New South Wales in relation to the concept of misprision of felony is that it is now contained in a statute, the Crimes Act - you're aware of that, aren't you?
A. Yes.

Q. It's section 316 of the Crimes Act of New South Wales; that's correct, isn't it?
A. I understand so.

Q. Have you been called upon to give advice regarding that section?
A. No, I have not.

Q. I was just wondering if I could explore with you - I'll just turn up the page reference. Mr Toole, you indicated at page 15763 at line 12:

> *Elders do not have the scriptural authority to take away the right of an individual to*

decide whether or not they want to pursue the matter or not.

Do you remember giving that answer a moment ago to --
A. Yes.

Q. -- Mr Stewart. Of course, you're familiar, I assume, with Galatians - I think I'm pronouncing it correctly - 6:5?
A. Yes.

Q. Which indicates "for each one will bear his own load". That's a correct quote; do you agree?
A. Yes.

Q. Is that what you were referring to when you indicated there that elders do not have the scriptural authority to take away the right of the individual?
A. That's one of the scriptures. Other scriptures - the principle of headship, family autonomy.

Q. "Headship"? As to --
A. The family as a unit. We don't have the right, scripturally, to invade a family and start dictating what they do or don't do. They've got their right.

Q. Of course, the perpetrator may be within the family unit, though - that's a distinct possibility, isn't it?
A. Yes, that's true.

Q. So you're saying that there will be some guardian who can take on the role of assisting the abused?
A. No, my understanding is that in a situation as you describe it, the elders would deal with the service department - and, as I said, I'm not directly involved in this, but - in terms of working out what they needed to do to be able to ensure the child is protected. So they would work with the guardian/parent.

Q. If there was one?
A. If there was one.

Q. In relation to obligations, you understand, don't you, that section 316 effectively creates an obligation upon an individual who comes to know or believe that a criminal offence has occurred - do you understand?
A. I understand.

Q. So, for example, in a judicial committee, if the two elders, or perhaps three, each individually, obviously, came to hold the belief or know that an offence had been committed, arguably, they are obliged under section 316 each, individually, to report the matter to the authorities. Do you understand that concept?
A. Well, our understanding, if I can just explain, has been that the mandatory reporting legislation in each of the States dictates who is responsible to report child abuse matters and who is not. It designates who they are or the class of persons, and it also designates the circumstances under which those particular offences need to be reported. That has been our understanding.

Coming to this Commission and hearing what has been said here has been quite a wake-up call for me, I can assure you, because we've operated under that understanding, that that was the dominating or the prevailing legislation that governed what was to be done in relation to reporting child sexual abuse. Having raised the question now, here, as to whether or not there are criminal laws that have an overarching or an overreaching obligation of mandatory reporting, in addition to the legislation that has actually been specifically designated as mandatory reporting legislation, is something that I can assure you we're going to look at very carefully. Immediately this particular hearing is over, we're going to instruct independent senior counsel and ask them to give us clear legal advice on what the position is right throughout Australia in relation to that, and any obligations that arise in relation to those laws we will certainly comply with.

THE CHAIR: Q. Mr Toole, the starting point for the discussion is it's not really mandatory reporting that's involved, which is a whole scheme in relation to particular offences or events; but this is the criminal law saying, in some places, you have an obligation, when you know about a crime, to report the crime. It's quite a different character?
A. I recognise that, your Honour.

Q. Do I then understand that previously the Jehovah's Witnesses didn't realise that this sort of law existed?
A. Well, we realised the law existed, but we were under the understanding when the government specifically

legislated to deal with the matter in question, which is mandatory reporting, that particular law was the governing law. Now, if we were wrong on that, we accept that, and that's why we're going to seek clear advice on the matter. And so it's a complicated situation, I recognise, but we will certainly look at it and address the matter.

MS GALLAGHER: Q. So if you receive advice from senior counsel that 316 is akin to mandatory reporting, or mandates that a report be made if knowledge or belief is held, then you would, I assume, in some way try and create some literature that made that plain to the congregation?
A. We have no qualm at all about mandatory reporting. If the government wants us to report every allegation of sex abuse that - of child abuse that we ever hear, we're more than happy to do it. But the problem we have is, scripturally, elders don't have the right to take away that right to decide what's in the best interests of the family from the family. If the law requires us to do it, we have no hesitation in doing it.

Q. Well, sir, the law has, since 1990, required you to do that. That's when this section was created. Before that, it was misprision of felony. Do you understand that to be the position?
A. I understand what you're saying, and my response to that was that we were under the understanding that the government had legislated specifically to deal with the area of mandatory reporting.

Q. When you say "we", who are you talking about?
A. I'm talking about as an organisation.

Q. But you've made it plain - and forgive me if I've misinterpreted your evidence - you really haven't been providing legal advice in a significant way to the Jehovah's Witness congregation generally in Australia; is that right?
A. What did you mean by the question, just for me to understand?

Q. I withdraw the question. On issues of legal interpretation and advice of that nature, you indicate that you're going to go to senior counsel about this particular issue?
A. Yes.

Q. Have you done that in the past in relation to issues that have arisen - you've sought independent legal advice?
A. Not on this issue at all. We have on other issues but not on this issue, because we were under the understanding that the mandatory reporting legislation as it existed actually determined exactly who had the obligation to report. Now, we may well have been wrong on that and, if that's the case, we'll accept the responsibility. But we now - I can assure you, we'll follow it up to make sure clearly what the position is.

THE CHAIR: Q. When you say, "we were under the understanding", do you mean you were?
A. Well, me, yes.

Q. You as the lawyer?
A. Yes, yes.

Q. Just to make sure we're all on the same ground, the mandatory reporting legislation imposes obligations on identified persons.
A. Yes.

Q. You understand that misprision, or a statutory equivalent, imposes the obligation on everyone?
A. Yes, I understand that.

Q. Have you always understood that?
A. Well, I understood that it was subjugated or - when the government passed legislation that specifically dealt with mandatory reporting, if, in fact, the obligation arose under another statute, you wouldn't need this particular statute.

Q. They are quite different things.
A. Yes.

Q. The mandatory reporting legislation is a scheme that requires identified people to report to identified bodies. Misprision, or section 316 as it is in New South Wales, is a general obligation on every citizen --
A. Yes.

Q. -- to report to the police in relation to a criminal offence?
A. Well, I have become much more aware of it in the last few days, and that's why we'll be taking very deliberate

action to address the matter.

MS GALLAGHER: Q. How will it sit with Galatians 6:5?
A. How will it sit with Galatians 6:5?

Q. Yes, because it will effectively be against a scripture --
A. No.

Q. -- that has continually been relied upon during the course of this Commission, that each person bears their own load. So it will be necessarily in direct contradiction, won't it?
A. No, it won't. If I could explain why - that scripture that I read says that we have to be obedient, as Christians, to the superior authorities.

Q. Romans?
A. So if, in fact, the superior authorities have a law that says this is what we need to do, well, that's the end of it; we'll obey.

Q. If I could go to tab 131A at Ringtail 0013, paragraph 14 --
A. I haven't got it yet.

Q. I beg your pardon. Have you got it there?
A. Yes.

Q. Mr Stewart touched on the sentence commencing "Strict confidentiality" in paragraph 14:

> *... must be maintained to avoid unnecessary entanglement with secular authorities who may be conducting a criminal investigation of the matter.*

I just want to clarify what that means. Does it mean that there could be, effectively - if a matter had been reported to the police, so the secular authorities are dealing with it, but if the elders wanted to conduct an investigation in preparation for a judicial committee, does that advocate that they can, but they effectively keep it strictly confidential?
A. The advice that I give elders when they call - sometimes the police are already involved in the matter, and that's how the elders first find out that there's even

an allegation. The advice that I give elders when they call in, in that situation, is that if the police are involved, don't do anything at all until their investigation is completed, because we don't want in any way to interfere with their investigation.

When they go and speak to the family or the victim, as I direct them, if, in fact, that person wants to take action, the same advice would apply. We don't want to get involved and in any way influence a police investigation.

Q. Yes, certainly. You touch upon that in your statement, don't you?
A. Yes.

Q. If the matter is with the police, you, effectively - have you personally instructed people not to seek to interview anybody?
A. Yes, I have.

Q. The accused or the accuser?
A. Yes, I have.

MS GALLAGHER: Thank you, your Honour.

<**EXAMINATION BY MS DAVID**:

MS DAVID: Q. Mr Toole, I'm Ms David and I represent [BCG] in these proceedings.
A. Hi.

Q. Just on the issue of reporting, in the situation where there is a child who has been abused by her father, for example - as in the case of [BCG] - in that situation, and the mother was of the view that the matter should be reported but the father - sorry this is a poor example. In another situation where a child has been abused and the mother of the child wanted to go to the authorities, but the father didn't, what would the situation be there?
A. Well, the mother is then the protective guardian of that child. That child needs the mother to be protective. If she wanted to go to the authorities, that's her right absolutely.

Q. Even against the wishes of her husband?
A. Absolutely. Because the concept is "relative subjection". If her husband is asking her to do something

that God says she shouldn't do, she wouldn't obey him in any way.

Q. Would the elders give advice on that to that couple, to that effect, that that was her right, independent --
A. Absolutely.

Q. -- of the father?
A. It's a scriptural principle.

Q. In the situation where you do have a child who is abused by their father, as in the case of [BCG], and there was no effort or attempt by the mother to go to the authorities or to the police, do you have a procedure? Nothing occurred then, but do you have a procedure now that would enable - a process whereby someone is appointed in loco parentis, as a guardian for that person, to make that decision?
A. No, we don't have a procedure, but what you actually have is an interchange between the service department and the elders that are on the spot dealing with the matter, working out how best to be able to ensure that that child is protected. But I can assure you, whatever needs to be done to protect a child, we'll do it. If it means going to the police, we would have no hesitation in going to the police.

Q. What about the situation where you do have a young child and the parents have decided not to exercise, as you call it, their absolute right to go to the authorities, and that child was, for example, a young child of five or six.
A. Yes.

Q. The child is obviously going to become more aware and independent of her parents - he or she - as they grow. How do you deal with that situation? Is there a process to ensure that that child can, at some point, make a complaint, or knows that they have that right?
A. Well, normally - it's a hypothetical situation, but normally they'd have grandparents or other people. Firstly, we'd have to come to know about it and, if we came to know about it, usually that would happen because a child is talking to maybe a relative, a grandparent. As soon as they became aware of it, they would mention to the elders that there's a situation here. Then the matter would be dealt with appropriately to be able to ensure the child was protected. Now, it may well be, in those circumstances, if

it was a grandparent, then, the elders would help the grandparent realise that if the parents themselves weren't going to protect their own child - which would be pretty shocking behaviour, but if they weren't - then it would be the responsibility of the grandparent, maybe, to step in. Maybe they could go along to the authorities with - but if the situation was such that there was no other way that we could find to protect that child, we would have no hesitation in going to the authorities.

Q. My question is more directed to how people who have been subjected to abuse become aware of their absolute right to go to the authorities. What process, if any, is there to ensure that people subjected to sexual abuse - young people - have that awareness that they can go to the authorities?
A. I would think that every Jehovah's Witness in the country who is of a reasonable age and experience - they go to school, they do all this - would be fully aware of the fact that if they wanted to pursue it, they would have an absolute right to do so.

Q. Given that your teachings really discourage any relationships outside of relationships with Jehovah's Witnesses, don't you think a young child will grow up thinking that that is not an option, unless it was clearly pointed out to them that that was an option which would be wholeheartedly supported by the congregation?
A. We don't isolate ourselves. Children have - they go to school, they have relationships with teachers, they have a relationship with a whole host of people. To say that we live in an isolated community, I think, is really reading it a little bit strongly. We obviously want our children to associate with people who are going to help them to maintain a proper moral standard, and obviously, as responsible parents, you want to be sure who they are associating with, but they don't live in a cocoon.

Q. They are taught, aren't they, as they are growing up that people other than Jehovah's Witnesses are worldly people?
A. They are probably taught that people who aren't Jehovah's Witnesses, many of them, may well not share the same values, although many do in many respects.

Q. It's the case, isn't it, that they are not supposed to associate closely with people outside of the congregation,

are they?
A. Well, if someone is a young person, as you describe them, they are spending probably five or six hours a day with people who don't share their same faith values. So they are obviously associating with them at school, playgrounds and various things, yes.

Q. Just on that topic, in relation to sex education, for example, do the Jehovah's Witnesses today have a policy against the children of Jehovah's Witnesses learning in secular schools about sex education through that secular school system?
A. That's a decision entirely for the family to make.

Q. Are you aware that it is a practice of families to write to the school to say that their children should not receive sex education?
A. No, I'm aware of the opposite, because our literature says really it's a matter for you to decide, as families. It's something - the parents have to decide what's in the best interests of their children, so if they feel it's in the best interests to have school sex education, so be it. If they don't feel it, that's their right again.

Q. Again, for example, in the case of [BCG], she gave some evidence that she was not able to attend those sex education classes. So do you see a difficulty in that particular situation, whereby a young person attending school would not have the awareness about what behaviour may be inappropriate?
A. Well, I can't really comment on that, but, still, that's her family's right to choose whether she wants to - whether they want her or don't want her. Families have to accept the responsibility for their own wellbeing and their own children. That's part of being a parent. But you'd like to think they'd be responsible parents.

Q. I just want to ask you some questions. If you turn to paragraph 27 of your statement, please, you were involved in the preparation of documents and statements for the case of [BCG]?
A. Yes.

Q. You've said here that you accepted service on behalf of a number of elders who were involved in the committees and the appellate process, in accordance with your Jehovah's Witness process. You said that you assisted them

with the preparation of their statements. What do you mean by "assisted them in the preparation of their statements"?
A. It came - I think it was Mr de Rooy who rang and said he'd been contacted by the police. I spoke with him and he explained the situation. I'm not sure whether it was then or a little after, but he gave me instructions to act on his behalf. He told me that the particular policewoman that had contacted him was Natalie Bennett. From my recall, I rang Natalie Bennett and I said, "What's the situation? What did you want?" As I recall, she explained to me what was happening in relation to this matter that [BCG] was involved in, that she wanted to actually have a statement from the three elders that were involved in the initial judicial committee. She also wanted a statement from those three elders that were involved in the appeal committee. I said, "I will assist you in the matter." So that's what I did. I went and obtained statements, but only draft statements, from each one of those elders, and then either I sent them directly to Natalie Bennett or they did, but I didn't finalise any of those statements. They were finalised by the police. I don't think, from memory, any documents were subpoenaed. I think Natalie Bennett spoke to me on the telephone and explained what documents she wanted and I just arranged for them to be produced.

Q. Just in relation to that, you assisted in the preparation of the draft statements?
A. Yes.

Q. That would mean substantial information was put in those draft statements?
A. I put in the statements what the elders told me.

Q. You had been involved in the internal processes of the Jehovah's Witness procedures in relation to the case of [BCH] at that stage, hadn't you?
A. No, not at all. That was the first I heard about it.

Q. Did you not think that there was a conflict of interest between you assisting in the preparation of statements from witnesses to a trial that involved a number of elders from your congregation?
A. I didn't see it that way. I was just taking a statement by way of being of assistance to the police.

Q. Did you not see that, as pointed out I think in document 131A that's been referred to by counsel assisting

and Ms Gallagher, that in relation to confidentiality one of the concerns is the civil liability that may flow to your congregation as a result of any internal processes?
A. I don't understand the question, I'm sorry.

Q. What I'm suggesting to you is that do you not see that there is some conflict between your role in protecting, if I put it that way, the congregation against civil liability suits, and the witnesses providing a full and frank statement to the police?
A. I didn't see the slightest conflict in that matter. I was just simply helping those elders and assisting to take down their draft statement and ensuring that it went to the police. And I understood that Natalie Bennett finalised every one of those statements. She would have talked to the elders. There would have been a full and frank disclosure of whatever they recalled. I didn't see any conflict at all. I wasn't trying to protect anyone. I was trying to be of assistance.

Q. I'm not suggesting there was a conflict. I'm just suggesting the appearance of a conflict - that the statements made and assisted by someone whose primary role is to work for the Jehovah's Witness Church - congregation - might appear to be in conflict with a person who had clearly expressed, over time, her dissatisfaction with the church, with the congregation's handling of [BCH]'s case?
A. I was completely unaware of [BCG]'s situation. I had never met her. This is the first I actually heard about this matter when I was contacted by Ron de Rooy.

Q. Shortly thereafter you were involved with correspondence - received correspondence, for example, in relation to her sisters - from her elder sister that was shown to you before. That was in 2002, as I recall - 2003?
A. 2003, was it, or something like that, yes.

Q. You provided that to the police, did you, that correspondence that you received?
A. I think she actually sent me a copy of her police statement.

Q. No, no. My question to you was: did you send her letter to the police?
A. No, I didn't.

Q. Did you not think that that would be of significant assistance during the course of a trial against [BCG]?
A. Well, the letter contained about --

Q. Sorry, [BCH], I apologise.
A. The letter contained a complete police statement by that individual, which declared everything and sundries, as I understood. This case was already - I'm not sure whether it was the first case or the second case, but I understood that the police had all that information.

Q. Well, isn't this the problem, though, the conflicts that can occur? You understood that the police had that information. You're not in a position to really know exactly what the police had --
A. No, but if the police have a five-page statement, I presume that - they've got the five-page statement. They've interviewed this particular person.

Q. Do you recall whether that statement had in it all the information about the --
A. I don't.

Q. You don't recall that?
A. No.

Q. So what I'm suggesting to you is that this is where the conflicts can arise, can't they? You give some confidentiality to the correspondence that you receive from a member of your congregation, being the elder sister of [BCG] and the elder daughter of the accused, and you don't do anything with it?
A. The letter actually says that she has been contacted by Natalie Bennett, as I recall. So she's obviously had full and complete discussions, one would think, with the police. She's made this statement which has been settled or finalised by the police. My understanding was whatever information she wanted it to contain or state would have been shared with the police or in that statement. But if I can just mention, there wasn't the slightest question that I'm trying to protect anyone in this instance at all.

Q. No, I'm not suggesting to you that you did anything to protect --
A. Right, thank you.

Q. What I'm suggesting to you is the appearance of

conflict, and you would be very well aware of that concept, that you must avoid any appearance of conflict between the interests of your congregation and the interests of somebody who was, at that time when she was making the complaint, outside your congregation - when she made the complaint to the police?
A. I would have thought the help that I gave was assisting her. As a result, six men went and gave evidence in her case, I understand; the man was convicted, I presume, on some of the evidence they produced.

Q. To avoid a conflict, wouldn't have been better actually just to send them to the police so that the police could take their statement?
A. That's a question of judgment, but Natalie Bennett, I understood, was very happy that I was preparing those draft statements. Then she's got something that she can sit down and discuss with those men. She finalised them, I didn't.

Q. Another option would have been to send it to someone outside - a lawyer outside the congregation?
A. I guess, in hindsight, there's all sorts of possibilities, but I didn't see that in any way, shape or form I was doing anything inappropriate in what I did.

Q. Do you agree that that is an option, though, to send it outside the Jehovah's Witness --
A. Absolutely.

Q. Coming back to the absolute right of a member of the congregation to report to the authorities, a counsellor or a psychologist wouldn't be classified necessarily as an authority, would they?
A. I don't understand your question.

Q. All right. Do you ensure that a person complaining of child abuse is well informed about his or her absolute right to go to a psychologist, for example, or a counsellor, to obtain support and assistance?
A. I can't really answer the question, because I haven't been involved that way. But there is absolutely no prohibition, dissuadement [sic] or anything as far as that's concerned. If someone wants to go, that's their prerogative entirely.

Q. I'm not talking about prohibition or persuasion [sic].

I'm asking you is there any policy that you're aware of that positively states that the elders should instruct or advise the people who have made a complaint of abuse that they have the absolute right to go to a psychologist, for example?
A. No, I'm not.

Q. Do you believe that that should be something that should occur?
A. Well, there are a lot of things that have come out of this Royal Commission hearing that I'm sure will be considered very carefully and very considerately over time.

Q. Is that something that you believe should occur?
A. Me personally?

Q. Yes.
A. I guess that would depend on the circumstances, but there's nothing wrong or inappropriate about it at all.

Q. Does it go against your scriptures to speak to counsellors outside?
A. No, not at all. People have an absolute right to speak to who ever they want to.

Q. When either the victim or the survivor of the abuse, but the person who has been abused, when they are being informed of their absolute right to go to the police, for example, are they made aware of what might happen to their complaint if it is not made quickly? I'll put it this way: are you yourself aware of how delay in reporting a case of abuse can impact upon the subsequent trial?
A. Yes, I am.

Q. What is your understanding of the difficulties?
A. Well, obviously, the further you are removed from the event, the more difficult evidence is, people's recollections, as has obviously been evidenced at this hearing here. People are trying to remember events that took place 26 years ago. Sometimes I have difficulty remembering what I had for breakfast yesterday. It's difficult, I appreciate it.

Q. When you're giving that advice to either the parents or the person who has actually been abused, is that explained to them?
A. I don't believe it is, but it is something that we

could take on board.

Q. In the process, do you understand - clearly, I think you've been watching these proceedings over the last --
A. Yes.

Q. During the course of those proceedings, there has been a lot of reference to the procedure - the committee procedure whereby - well, two case study examples, for example, [BCG] and [BCB] - in [BCG]'s case how petrified she was in that committee process whereby she had to give evidence or tell her story in front of her father and three male elders - you're aware of that?
A. Yes, I heard what she said.

Q. Would you agree that that very process does not lend itself to a young abused person being full and frank about the detail of what actually happened to them?
A. Absolutely, but I understood the evidence that was given yesterday by Mr Spinks shows that just simply wouldn't happen today, unless someone wanted actually to confront the abuser.

Q. What I'm getting at is that by choosing to go through your process - the committee process - if a person who had been abused chose to go to that process, even if it was in writing or they took some less terrifying way of doing it - is it pointed out that, for example, when they finally get to court, if they haven't given a full and frank --
A. If they haven't - sorry?

Q. If they haven't provided a level of detail in the committee process, and they are subsequently cross-examined about a later account which has more detail, that they could be heavily criticised through that court process? There are inconsistent statements, you would be well aware of the difficulties with inconsistent statements.
A. Yes.

Q. Are those matters ever pointed out to the elders when they are advising people who are abused?
A. In answer to your question, it's the same as before. The instructions are to make sure they are fully aware. As I understand, the elders don't explain to them the point that you've made. I've taken that on board and I'll certainly add that in terms of any advice that I give anyone in the future so they are made fully aware of that.

Q. Would it be a possibility for them to be advised independently of the elders, for example?
A. Absolutely. Absolutely.

Q. By someone like yourself, of all those particular outcomes, if they don't make the complaint?
A. If they chose to, I'd be more than happy to assist them in that way.

Q. What about seeking again - referring them to outside --
A. What about?

Q. Referring them to outside legal representatives?
A. Absolutely. They are perfectly free to go to who ever they want to. This is their right. They are not stopped in any way, shape or form from doing what they feel is in their best interests.

Q. I want to ask you about one other aspect. As a Jehovah's Witness, as a soldier of Christ, you are essentially in a theocratic warfare against those who have a different view of religion - is that the case?
A. No, I don't think that's the case.

Q. Are you aware of the doctrine of theocratic warfare?
A. No.

Q. Never heard of it?
A. Well, I've heard the expression, but I'm not really sure what it means.

Q. So you don't know what it means?
A. No.

Q. In The Watchtowers in 1957 and 1960, have you heard they say that:

> *As a soldier of Christ, you are in theocratic warfare and you must exercise added caution when dealing with God's foes. Thus the scriptures show that for the purpose of protecting the interests of God's cause it is proper to hide the truth from God's enemies.*

Have you heard of that?
A. No, and I've never read 1957 magazine articles, I'm sorry. I only became a Jehovah's Witness in 1972.

Q. But, as a lawyer, you would be aware of such concepts, wouldn't you - that you can lie to protect Jehovah's name?
A. We are truthful. To be a Christian, you have to be truthful.

Q. Is there any occasion when there is a basis for keeping the truth from outsiders?
A. Well, if our congregation was being persecuted, like what happened in the times of Adolf Hitler and he was taking people to concentration camps because they wouldn't join his army and go to war, and somebody came to me and said they wanted a list of everybody in the congregation, I wouldn't tell them - I'd like to think I wouldn't anyway under those circumstances. It might cost me my life, but I'd like to think that I wouldn't divulge that information, because I know what the consequences would be for the people I divulged that about.

Q. Is there a concept of malicious lying in the Jehovah's Witness --
A. Well, yes, there is, to some degree, in the sense that sometimes you can tell what you saw at an event, someone else says what they saw in the event, and the two stories don't really agree too well, it doesn't mean that you're actually lying.

Q. With respect --
A. But if someone is actually setting out, with malicious intent, to in fact undermine or destroy, or whatever the case may be, that's the - in the situation of that memo that was put to me before, I would say that's a classic case of malicious lying. This man is deliberately and maliciously lying about what he did to his daughter and what he admitted to doing to his daughter.

Q. So the example that you gave before, it's not a question of lying. Honest people can be wrong and --
A. Sure.

Q. They can. So it's not a question of lying. They have a different recollection, and it's simply that. I'm just talking about deceiving, that falsehoods presented to God's enemies are not considered lies if it's to deceive

outsiders to advance the organisation's interests?
A. No, that's - that's - I've never heard that.

Q. Never heard that in your role --
A. No, that's a completely foreign concept to my understanding.

Q. I just want to ask you something else. When a person is disfellowshipped, they can still attend Kingdom Hall, can't they?
A. Yes.

Q. And they can sit up the back of Kingdom Hall?
A. Yes.

Q. And they can enter after the congregation has entered -- as long as they enter and leave before the congregation --
A. I don't think there's any strict rule about it, but they'd normally do that anyway, but they really aren't associating with the congregation at all.

Q. So there is nothing to prevent, for example, a disfellowshipped person from attending the same congregation as the - a person disfellowshipped on the basis of being a sex abuser, there is nothing to prevent, in your faith, from attending at that congregation, is there?
A. No, but if it was going to be offensive to the victim, there would be a very clear instruction given to them that this was very inappropriate, because obviously the effect of that - sometimes you have situations where there has been an adulterous situation in a marriage or something like that and you've got someone here and someone here. Sometimes it is very unpleasant, and the elders would certainly discuss that with the wronged - or the person that's wronged the other and ask them if they could make some other arrangements, out of sensitivity to the person's feelings.

Q. That's the highest you could ever go. You could go to that disfellowshipped person and ask them not to come to the congregation, couldn't you?
A. Yes.

Q. But you couldn't actually tell them - you couldn't ban them, could you, from that congregation?

A. Unless they were causing major difficulties, we couldn't. It's a meeting that's open to the public. If they sat there - if - in the extreme example you're discussing, ultimately I guess it would have to be considered, but if there was a real problem in that regard, what would happen is the elders would contact the service department, they'd discuss it thoroughly and work out how the principles that we operate would apply in that situation to be able to address the matter.

Q. Would you involve the police in the removal of someone if they were requested not to go and then --
A. We have had people come to Kingdom Halls that have been creating a disturbance, and we have involved the police. We have revoked their implied invitation to come, so they become a trespasser if they're there. We're quite happy to do that, if that's necessary.

Q. Before this Commission, as I understand it, there were two people from the congregation who were not concerned whether they took an oath on the Bible or an affirmation. Are you able to make any comment about why someone, who was a member of the Jehovah's Witness congregation, would not automatically think that they would swear an oath on the Bible?
A. If you want my honest opinion, it's possibly the first time they have ever been put in a forum like this, and they are frightened and so terrified of the whole experience, they really probably weren't sure what they should be doing. So it's a pretty daunting experience for some people that have never been confronted with it before.

Q. Is there any guidance on that from the legal department?
A. No. That's a matter entirely for an individual.

Q. Would you find it unusual, though, for someone not to automatically want to swear on the Bible?
A. If it was a considered opinion, they thought about it quite a lot and they didn't want to swear on a Bible, and I knew them well enough to ask them, I'd ask them why not just as a point of interest to satisfy myself, but there is no hard and fast rules.

THE CHAIR: Ms David, there are some devout Christians who, out of respect for the Bible, won't swear on the Bible. I'm not sure that this is an issue worth pursuing.

MS DAVID: No, I appreciate that, your Honour. Thank you, your Honour. Thank you, Mr Toole.

<**EXAMINATION BY MS McGLINCHEY:**

MS McGLINCHEY: Q. Mr Toole, my name is Ms McGlinchey and I appear for Monty Baker in these proceedings.
A. Thank you.

Q. Mr Toole, you've said on a number of occasions in your evidence that, if it was necessary to protect a child, you would have no hesitation in going to the police.
A. That's correct.

Q. Just to be clear, is the effect of your evidence that you have never in fact done that?
A. No, I haven't.

Q. Is the effect of your evidence that you have never in fact advised a member of the Jehovah's Witnesses to report a matter to the police?
A. No, I haven't, because I don't give that advice. The service department deals with that.

Q. Thank you. You have an employed solicitor?
A. I have a solicitor that is in my firm, but they operate on the same basis that I do. We're just members of the order. She's associated and works under my guidance, yes.

Q. Her practising certificate does note that she works for your firm?
A. Yes.

Q. Do you supervise her?
A. Yes. When we're doing - when we're doing work in my capacity as an independent solicitor, yes.

Q. She's a member of Jehovah's Witnesses as well?
A. Yes.

Q. Do you know if Ms van Witsen has ever advised a member of the Jehovah's Witnesses to report a matter to the police?
A. No, I do not.

Q. Have you ever given her any instructions on the circumstances in which that advice should be given?
A. She doesn't give that advice - well, she doesn't take any calls in relation to those matters.

Q. Are you the only person in your firm who takes calls in relation to sexual abuse matters?
A. At the present time, that's the position for the last few years, that's my role.

Q. Just to be clear, the knowledge that you have to base the advice - the legal advice that you give, have you undertaken any other training outside the Jehovah's Witness?
A. Any?

Q. Any outside training perhaps conducted by the Law Society, or --
A. In relation to what?

Q. How to deal with matters - legal requirements - to do with matters dealing with child sexual abuse?
A. No.

Q. You have a fairly heavy burden as a senior lawyer advising the Jehovah's Witnesses; is that correct?
A. Yes, but I'm advising them in only one area, and that's their obligations to report under the mandatory reporting regime. I'm not dealing with child sexual abuse per se. I'm simply just giving legal advice, like any lawyer would if you walked into his office and said, "What obligations do I have in these circumstances to report a matter in this particular State?"

Q. Just to be clear, have you ever advised, in your capacity as a lawyer, anybody to report under the mandatory system?
A. Yes, I mentioned that to counsel this morning I have.

Q. I want to understand how your practice works. Do you have an office?
A. Yes.

Q. Which you attend on a daily basis?
A. Yes, but I'm - I'm also a corporate lawyer and I do work along with the branches doing normal administrative legal related work. But there are times, if I take on a

client, then I'll act for them independently.

Q. A Jehovah's Witness client?
A. Any client, but generally it's one of Jehovah's Witnesses, yes.

Q. In relation to your supervision of Ms van Witsen, does she attend the office as well?
A. Yes.

Q. And she works under your supervision?
A. Yes.

MS McGLINCHEY: Thank you.

<**EXAMINATION BY MR TOKLEY:**

MR TOKLEY: Q. Mr Toole, as you know, my name is Andrew Tokley. I represent the Watchtower Bible & Tract Society of Australia. I also represent you, Mr Spinks, and Mr O'Brien. Could I please have the document behind tab 82. Its Ringtail number is 244. Mr Toole, do you see what's brought up on the screen?
A. Yes, "If your child is abused".

Q. Yes. Do you understand this to be part of an Awake! publication?
A. Yes.

Q. Could the screen be scrolled down to see the date on the bottom. Do you see that it's a publication of 8 October 1993?
A. Yes, I do.

Q. Could we now scroll down a little?
A. Down or up?

Q. Down. If you look at the second column on the right-hand side?
A. Yes.

Q. Do you see the paragraph beginning "What, though"?
A. Yes.

Q. Do you see it says:

What, though, when the abuser is one's own

beloved mate?

A. Yes.

Q. Do you recall being asked questions about what might happen in a situation in which, for example, the husband is an abuser of a person?
A. Yes, I do.

Q. Do you see what it says:

Sad to say, many women fail to take decisive action. To be sure, it is never easy to face the ugly reality of a mate who is a child abuser. Emotional ties, and even financial dependency, can be overwhelmingly strong. The wronged wife may also realise that taking action could cost her husband his family, his job, his reputation.

A. Yes.

Q. It continues:

The hard truth is, though, that he may be just reaping what he has sown. Innocent children, on the other hand, stand to lose much more if they are not believed and protected. Their whole future is at stake. They do not have the resources that adults have. Trauma can scar and shape them adversely for life. They are the ones who need and deserve tender treatment - Compare Genesis ...

Is the instruction in that paragraph consistent with your understanding of how these matters are approached by the Jehovah's Witness faith?
A. Absolutely.

Q. If you go to the next paragraph:

Parents must therefore make every reasonable effort to protect their children. Many responsible parents choose to seek out professional help for an abused

child. Just as you would with a medical doctor, make sure that any such professional will respect your religious views. Help your child rebuild his or her shattered self-esteem through a steady outpouring of parental love.

Is that consistent with your understanding of what the Jehovah's Witnesses' view is of the role of parents and, in particular, the role of responsible parents?
A. Yes, it is.

Q. So that a responsible parent would choose to seek out professional help for an abused child?
A. Yes.

Q. I wonder if I might be able to provide to the witness a copy of a document that's been provided to my learned friend. It's an unredacted document. I have copies for the Commission. Obviously, no names should be mentioned, Mr Toole, because it's an unredacted document. I'm happy to provide it to counsel for all parties on the basis they keep the names confidential.

Mr Toole, do you have before you an email?
A. Yes.

Q. It's dated 4 May 2013?
A. Yes.

Q. Was that email solicited by you, or provided to you, by the author of the email?
A. Provided by the author.

Q. Again, without naming any names, was the email from a member of the police force?
A. Yes.

Q. Was the person a senior member of the constabulary?
A. Excuse me?

Q. Was the person a senior member of the constabulary?
A. I understood so, yes.

Q. Again, without naming any names, was the email to you to thank you for the assistance that had been provided by some elders in relation to the conviction of a person for

indecent assault?
A. Yes, it was.

Q. I have no further questions on that document, thank you.

THE CHAIR: Do you want it to go into evidence?

MR TOKLEY: In its redacted form, we'd be happy for it to go into evidence. In its unredacted form, in order to preserve the confidentiality of the persons concerned, it perhaps ought not go into --

THE CHAIR: The point is, in this instance, the senior constable expressed her appreciation for what was done. Do we need any more than that?

MR TOKLEY: No.

THE CHAIR: In that case, we might give it back to you so that there is no chance of there being any breach.

MR TOKLEY: Thank you, your Honour. I have no further questions, your Honour.

MR STEWART: Nothing further, your Honour.

THE CHAIR: Thank you, that concludes your evidence, Mr Toole. You are excused.

<THE WITNESS WITHDREW

MR STEWART: The next witness is Mr Terrence John O'Brien. Your Honour, while we're waiting, I renew the call in relation to the list of names. Perhaps my learned friend has instructions by now and he can respond to it.

MR TOKLEY: Your Honour, I'm still taking instructions on that matter. I will need to speak to the author of the document, Mr H V Mouritz. I understand he's an elderly gentleman, in his 90s now, but I want to make sure that the answer we provide to the Commission is correct and, if need be, I'll provide an affidavit from Mr Mouritz about that matter.

My present understanding is that the service department did not in fact maintain a list of individuals

that could be generated by the computer. Whether that was Mr Mouritz's understanding at the time is the matter I need to clarify.

THE CHAIR: Very well. Mr O'Brien, it's necessary for you to be sworn. Will you take an oath on the Bible?

MR O'BRIEN: Yes.

<TERRENCE JOHN O'BRIEN, sworn: [12.51pm]

<EXAMINATION BY MR STEWART:

MR STEWART: Q. Mr O'Brien, will you state your full name, please?
A. Yes, my name is Terrence John O'Brien.

Q. Mr O'Brien, we have two statements from you, one dated 10 July 2015 and one dated 16 July 2015. Do you have those to hand?
A. Yes.

Q. Are there any amendments you wish to make to either of those statements?
A. I think I actually had a third statement as well dated 24 July, which was a correction of one point in my first statement.

Q. That corrected an aspect in relation to a child abuse allegation?
A. That was the one.

Q. Taking the second statement to be corrected in that respect by the third, are there any other corrections you wish to make?
A. No.

Q. Do you confirm the statements to be true and correct?
A. I do.

MR STEWART: I tender the three statements, your Honour.

THE CHAIR: They will be exhibit 29-024 as to the first one, 29-025 and 29-026 for the other two.

EXHIBIT #29-024 STATEMENT OF TERRENCE JOHN O'BRIEN DATED 10/07/2015

EXHIBIT #29-025 STATEMENT OF TERRENCE JOHN O'BRIEN DATED 16/07/2015

EXHIBIT #29-026 STATEMENT OF TERRENCE JOHN O'BRIEN DATED 24/07/2015

MR STEWART: Q. Mr O'Brien, you are currently the coordinator of the Australia branch committee of the Jehovah's Witnesses; is that right?
A. The Australia branch, yes.

Q. Are you seeking to qualify and say you're not coordinator of the Australia branch committee?
A. Of the Australia branch committee, sorry, yes, that's correct.

Q. You've been a member of the Australia branch committee since March 2005?
A. That's correct.

Q. Since when have you been the coordinator of that branch committee?
A. I think for about the last three years. I was acting coordinator for most of - two of those years when the coordinator, Mr Mouritz, was overseas, but for the last almost one year I've been the permanently assigned coordinator of the branch committee.

Q. Prior to that, you've been a Jehovah's Witness since 1975; is that right?
A. That's correct.

Q. You were baptised in 1976?
A. Yes.

Q. And you were a ministerial servant in the period 1977 to 1980?
A. Correct.

Q. And you've been an elder since 1980?
A. That's right.

Q. In the decade 1987 to 1997 you served as a circuit overseer in Australia?
A. I did, yes.

Q. And from 1997 to 2003, you served as a member of the branch committee of the India branch of the Jehovah's Witnesses?
A. That's right, yes.

Q. I take it, then, in 2003 or 2004 you returned to Australia; is that right?
A. Yes, 2003 I returned to Australia.

Q. Dealing first with the Australia branch committee itself, how many members are there?
A. Presently, we have 12 members.

Q. If I understand correctly, they are all elders - is that right?
A. All elders, yes.

Q. And that's a requirement, to be a member of the branch committee one must be an elder?
A. Must be, yes.

Q. It follows, therefore, to be a member of the branch committee, one must be a man?
A. Correct.

Q. Who are the 12 members, Mr O'Brien?
A. There's myself, of course; then there's Alan Wood; Graeme Martin; Winston Payne; Vaughn Guy, who is temporarily overseas on assignment; Donald Maclean; Viv Mouritz; Douglas King, who is infirmed, not an active member of the branch committee; Michael Davies; and Ivan Novion. Is that the 12?

Q. Ten I think we have, Mr O'Brien, including you. O'Brien, Wood, Martin, Payne, Guy, Maclean, Mouritz, King, Davies and Nabiyon?
A. Okay, Gregory Frank is an eleventh, and I'll just have to check who I've missed.

Q. Fair enough. Thank you, Mr O'Brien. Are all those members serving in that capacity full time?
A. Yes.

Q. So they are in full-time ministry, as it were, in that capacity?
A. That's correct.

Q. And that makes them all members of the Worldwide Order of Special Full-Time Servants of Jehovah's Witnesses?
A. They are.

Q. So they will all be looked after, as it were, in a similar way to that explained by Mr --
A. Spinks and Mr Toole?

Q. -- Spinks.
A. Yes, exactly the same situation.

Q. Thank you. They are appointed by the Governing Body; is that right?
A. That's correct.

Q. Is there a particular length of term of office?
A. No.

Q. So they are appointed until, what, they either retire or are removed?
A. Yes, or expire.

Q. Or reassigned?
A. Yes, that can be the case, too.

Q. In paragraph 8 of your statement - perhaps we can have that on the screen - in the second line from the bottom:

> *... the theocratic or Scriptural direction that the Governing Body provides, is the same in every branch and for all of Jehovah's Witnesses, worldwide.*

Starting with the means by which that direction is provided, as I understand it, that direction is provided through the various published manuals and magazines; is that right?
A. Manuals, magazines, letters, can be to congregations.

Q. I was going to get to that as well. It's also directives or letters to branches; is that right?
A. That's correct.

Q. Would the Governing Body publish such letters directly to congregations, or would that be to the branch for the branch to then publish on to the congregation?
A. I can't think of an instance where a letter was

directly sent to the congregations, but in the Annual Yearbook that is released there is a letter in the forward of that, which is a letter from the Governing Body directly to every member of the congregation worldwide.

Q. What scope is there for branches, such as the Australia branch, to suggest or request changes, or participate in any process of change, with regard to the theocratic or scriptural direction?
A. The branch committee doesn't generally get involved in scriptural interpretation. That's left to the Governing Body to provide that. The branch committee's general area of oversight is administering branch matters to do with the territory in which they oversee, field ministry, conventions, things such as that.

Q. The reason for not being involved in scriptural interpretation, is that because the Governing Body is seen as being Jehovah's representatives on earth who give the scriptural interpretation - the definitive scriptural interpretation?
A. Yes. My understanding is the Governing Body will approve the information, but they have other what they refer to as helpers and various committees who assist them in researching and formulating some of the suggestions. That would then go to the Governing Body for approval or adjustment, depending.

Q. So, as I understand it, there would be no scope for a branch - an Australia branch - to adopt a different scriptural interpretation from that of the Governing Body?
A. I'm not aware of it happening.

MR STEWART: Would this be an appropriate time?

THE CHAIR: Yes, we'll take the luncheon adjournment.

LUNCHEON ADJOURNMENT

MR STEWART: As your Honour pleases.

Q. Mr O'Brien, I would like to show you a document entitled "Branch organisation", January 2015. It was published in 2012 by the Watchtower Bible & Tract Society of Pennsylvania. Would I be right to understand that this is the current version of this manual?
A. Yes, January 2015, the date?

Q. Yes.
A. Yes.

Q. And this is the document that was produced in answer to my call earlier today?
A. That's correct.

Q. As coordinator of the Australia branch, I take it that you are reasonably familiar with this manual?
A. Yes.

Q. I would like to take you to some parts of it and then ask you some questions that follow. Starting with chapter 1 - do you have chapter 1 headed "Governing Body and Governing Body Committees"?

THE CHAIR: Do you have another copy of this document? We only have one between us.

(Document handed to his Honour)

MR STEWART: Q. In paragraph 1 it provides:

The Governing Body of Jehovah's Witnesses is made up of brothers who are anointed servants of Jehovah God. They have the responsibility for giving direction and impetus to the Kingdom work.

Some scriptures are cited. Then it says:

Like its first-century counterpart, the Governing Body today looks to Jehovah, the Universal Sovereign, and to Jesus Christ the Head of the congregation, for direction in all matters.

That's what it says. Is that the practice? Is that how it works?
A. That's correct.

Q. Then you will see in paragraph 2:

The Bible says: "Let all things take place decently and by arrangement." ... The Governing Body obeys the direction by

putting in place various helpful procedures and guidelines that ensure the smooth and orderly operation of the branch offices and the congregations. Responsible Christian men do their part by setting an example of obedience as they put such arrangements into effect.

And, in your experience, is that how it has worked, in practice?
A. Yes.

Q. In paragraph 4:

The Governing Body gives final approval for new publications as well as new audio and video programs.

Is that right?
A. That's correct.

Q. Is the consequence of that that the branch office does not, itself, publish anything independently of the Governing Body?
A. No, but we do have writing desks - for example, the Australia branch, we have a writing desk; we have writers who prepare articles and submit those, and they get published in The Watchtower, Awake! magazines.

Q. That's a process that is actually explained in a later chapter, so far as I was able to see, whereby people within the branch would submit articles to the headquarters in New York and those articles may be accepted for publication?
A. And get approved by the Governing Body for publication, yes.

Q. So is it the case, then, the Governing Body, as a body, would approve each of the publications published by the Watchtower Bible & Tract Society of Pennsylvania?
A. Yes.

Q. So each Awake! article and each Watchtower article, we can take, as having been approved by the Governing Body?
A. The Governing Body, as I understand, read every article before it's published and then give their approval for that.

Q. Then in paragraph 5 it says:

The Governing Body cares for the appointment and deletion of Branch and Country committee members and designates the brother who will serve as the coordinator of the committee.

That is how it happens in practice, is it?
A. That's correct.

Q. So you were designated as coordinator under this provision?
A. That's right.

Q.

It also appoints circuit overseers and country representatives. In most cases, such appointments are made based on recommendations received from the Branch Committee. The Governing Body also appoints helpers to Governing Body committees as well as headquarters representatives qualified to make branch visits.

I take it that is what is done in practice?
A. Yes.

Q. Over the page, as we see in paragraph 8, the various committees of the Governing Body are identified, starting with the coordinators' committee - do you see that?
A. Yes.

Q. In paragraph 8:

This committee oversees legal matters and the use of the media when necessary to convey an accurate picture of our beliefs. It responds to disasters, outbreaks of persecution, and other emergencies ...

and so on. I take it that the coordinators' committee does actually exist and function, does it?
A. Yes.

Q. On the following page, do you see at paragraph 15 there is something called the teaching committee?
A. Paragraph 15? Yes.

Q. And it says:

This committee supervises the production of spiritual food that is delivered orally for the benefit of the worldwide brotherhood and supervises the format that is to be followed at congregation meetings.

Am I to understanding that correctly, that the teaching committee is responsible for what is taught orally around the world?
A. Yes, at the congregation meetings, conventions, assemblies.

Q. So it says:

For example, it is directly involved in preparing talk outlines, convention costume dramas and sound-only drama scripts and recordings, convention chairman's introductions, as well as audio and video publications that are distributed on DVD, posted on jw.org, or broadcast through other means.

And so on. That's all the responsibility of the teaching committee?
A. That's correct.

Q. Then it sets out schematically, I think two pages further on, under the heading "World Headquarters", the Governing Body and then the various committees of the Governing Body are identified. Amongst them are the coordinators' committee on the left, the writing committee on the right, and the teaching committee next to that. As far as you know, is that how it is actually structured?
A. Yes, that's how it operates.

Q. Chapter 2 deals with the responsibility of branch committee members. In paragraph 1 it says:

The Governing Body appoints well-qualified elders to serve as members of a Branch

Committee.

I think you gave evidence to that effect earlier in any event, so that happens in practice, does it?
A. That's - yes, that's correct.

Q. And skipping one sentence it says:

As the representatives of the Governing. Body in their assigned territory, Branch Committee members must faithfully implement and follow the direction coming from God's Word and "the faithful and discreet slave."

Firstly, to understand the reference to the "faithful and discreet slave", that's a reference to the Governing Body, am I right?
A. That's synonymous, yes.

Q. So are we to understand that the branch committee members must faithfully implement and follow the direction given by the Governing Body?
A. Yes.

Q. And in paragraph 3 you will see:

Each Branch Committee member should be able to give as well as to follow direction. He must keep up-to-date with the policies and direction from the Governing Body and help others in oversight at the branch office to do likewise.

I take it that, at your branch office, you try to do that?
A. We do, yes.

Q. And in paragraph 4:

Branch Committees also have the responsibility to keep the organisation clean.

And there is a scriptural reference:

They must be courageous in seeing to it that all unrepentant ones are removed from the congregation.

I take it you seek to fulfil that requirement, do you?
A. Yes, the branch committee doesn't actually do that, unless they are an elder in a particular congregation that would handle - be on a judicial committee. But they are responsible to ensure the procedures are in place in congregations - qualified elders to carry out that.

Q. And they do that by their - that is, the branch committee's - oversight of the congregations.
A. Yes.

Q. If we then skip a page and we go to paragraph 16, we will see:

Branch Committee Coordinator.

That's the position you hold; is that right?
A. That's correct.

Q. Some aspects are set out in relation to that. Could I then take you to the coordinators' committee, which is at chapter 3. The pages themselves are not numbered, so far as I can see.
A. Yes.

Q. This is dealing with the coordinators' committee of the branch committee - do I understand that correctly?
A. No. No, this is --

Q. I beg your pardon, I meant of the Governing Body.
A. The Governing Body.

Q. The coordinators' committee of the Governing Body?
A. That's correct, yes.

Q. Thank you. Paragraph 1 is introductory. In paragraph 2 it sets out the branch committee's roles saying:

[It] should feel free to ask the Governing Body or one of its committees any question relating to the Kingdom work in the territory under the oversight of the branch office. It is best that such questions be expressed clearly and carefully in writing rather than by telephone.

So do I understand from that that if the branch committee has questions with regard to any policy or procedure or scriptural interpretation, it has the ability to write and seek clarification?
A. That's correct, yes.

Q. Is that procedure utilised in practice?
A. Yes.

Q. I won't go to the details, but in paragraph 5 there is set out what desk symbols should be used. Mr Spinks gave some evidence with regard to that. Paragraph 6 is correspondence standards. Then we go over, through naming of files, and even in paragraph 14, in particular, I might identify:

In addition to the use of numbered letters and memorandums, departments at headquarters and at the branch offices --

A. Sorry, I just missed where you are.

Q. Paragraph 14, do you see, headed "E-Mail"?
A. Yes.

Q. I am drawing attention to where it says that:

... departments at headquarters and at the branch offices may be approved by oversight to use e-mail to communicate directly with departments or individuals in other lands about technical and routine matters. However, e-mail does not replace numbered letters or memorandums.

So am I to understand that. In practice, certain people are approved to use emails for these kinds of communications?
A. Yes, as it mentions, routine matters - for example, our computer department assists other branches that don't have qualified personnel, so rather than use branch mail, they can communicate just by email, because it is a routine matter.

Q. So to summarise, then, is it the case that this manual sets out the rules by which the Jehovah's Witness

organisation internationally operates?
A. Yes, from the Governing Body and the branch - it's branch organisation, so it is direction for branch committees.

Q. And right down to the details of who may communicate with whom and in what medium?
A. Yes, in fairly broad parameters, though. The branch committee has the responsibility to decide who may. But the majority of the office workers use email to correspond.

Q. So when the Governing Body gives the directive to the branch to deal with something in a particular way, this is the document which sets out the Governing Body's authority to do that, and the branch's obligation to obey; is that right?
A. Yes, in conjunction with the scriptures, but the scripture reference that was used twice there in Matthew 24:45-47 says that Jesus appointed the faithful and discreet slave to provide the spiritual food to the domestics - that's God's people. So on the basis of that scripture, that's the scriptural reference for the whole procedure here.

Q. Broadly, it is believed to be modelled on First-Century Christendom, as set out in Acts?
A. Acts chapter 15, as an example. So there, there was a question on doctrine and rather than the apostle Paul making a decision on whether circumcision was a requirement for Christians, which was the issue, he took that back to the Governing Body of older men, the apostles, and other older men in Jerusalem. They made the decision and then they sent that decision by letter back with travelling representatives to the congregations, letting them know what the decision of the Governing Body was.

THE CHAIR: Q. Mr O'Brien, I have discussed this with other witnesses, but the Bible was, of course, written by people who lived a long time ago.
A. Yes.

Q. And who lived in a particular political and social structure.
A. True, yes.

Q. For example, slavery was still part of everyday life?
A. That's correct, yes.

Q. And taking that as an instance, society generally - not everywhere, but society generally, and certainly in western society, has moved on where slavery is no longer permitted?
A. True.

Q. That's an illustration of social change.
A. Yes.

Q. Now, the learnings that you take from the Bible and then translate into obligations, as I presently understand it, in many instances are learnings that were created in order to benefit and create a stable and healthy society more than 2,000 years ago?
A. Correct, yes.

Q. Is it open to the Jehovah's Witnesses to take another look and ask the question whether what the Bible says was appropriate for those times remains the obligation of the 21st century?
A. So that's the issue - with the Hebrew scriptures or the Old Testament, and the Greek scriptures or the New Testament, that was a significant change in Bible law and Bible understanding, and much of the Christian era recorded in the Greek scriptures or the New Testament, basically is principles rather than laws and commandments, although it does still contain some laws. But the Mosaic law that the nation of Israel had lived by, that was done away with Christ, and so the principles - we believe many of them are timeless, in any place, any time.

Q. That's the question: that's your belief.
A. Yes.

Q. And I was careful to say "there are principles which you have accepted as obligations". And that's the position, isn't it?
A. Yes, that can be - yes.

Q. But is it open to Jehovah's Witnesses, as perhaps you have done with slavery - I mean, I assume that Jehovah's Witnesses would find slavery abhorrent.
A. Yes, yes, particularly the --

Q. Whereas the New Testament accepts it?
A. It was a different type of slavery to what generally

is - like the African slavery that was taking place in those centuries, the settlement of the empires - the slavery back then was much more like an employed person.

Q. Not the impression I have of Rome.
A. Well, yes, the Christian era, in the household of Christians, it was that way. The Bible gives counsel to masters who had slaves, how they were to treat their slaves - not the way the Romans did.

Q. They weren't exactly employees, though, were they?
A. No, but they were cared for. The point I'm making is it was different to the type of slavery people associate with, say, the African-Americans.

Q. At the centre of the issues that the Commission is concerned with, of course, as you know, is the process whereby the Jehovah's Witnesses receive, investigate and determine allegations of sexual abuse.
A. Right.

Q. You understand that?
A. Yes, I do, yes.

Q. And you understand the discussion we have had about the difficulties that women might face in expressing their intimate concerns to three men in the tribunals that you have provided?
A. I do, and that's why I think Mr Spinks made the point yesterday that that just doesn't happen, nowadays, that - unless the woman wanted to face her accuser *[sic]*.

Q. It's not the accuser *[sic]*. We're talking about the adjudicator.
A. Yes. So if it's a matter of gathering evidence, the principle is that the elders who are going to investigate the matter simply need to be convinced that the statement - receive the statement from the victim. That can be done any number of ways. She doesn't have to sit and face three elders, because there is no clear Bible principle that says that she must do that. So --

Q. But, nevertheless, she is disclosing her intimate details to three men.
A. Well, not necessarily, I think, your Honour. She can meet one elder, depending on the age of the person. It's historical --

Q. All right. Ultimately, the adjudication process will require three men?
A. Three men. But she may not need to be involved after she has provided her statement.

Q. After she has given the intimate details?
A. Yes.

Q. Correct? Now, is there room for women to be involved in the investigation and decision-making process?
A. Well, that's one of the points we need to take back and discuss, give that much more consideration than we have, because that - if it's based upon the Bible standards, then we would present that to the Governing Body as one of the recommendations from the Commission. We certainly - I can see the point being made with it, and I don't see why a woman couldn't be involved in the process, particularly in establishing the victim's statement, so she doesn't have to face three men.

Q. Now, as I understand it, the role of a woman in early Christian society was quite different to the role which women have in western society today?
A. Yes.

Q. Is that correct?
A. Yes, I'd say that's true.

Q. And the Bible, in identifying men as the leaders - and thus you have turned that into the elders - was reflecting the social structure that existed in those communities in those days, wasn't it?
A. It was.

Q. Society has changed in the western world, and continues to change, in relation to the role of women, doesn't it?
A. Yes, very much so.

Q. Now, why would it be that the Jehovah's Witnesses would stay with a structure that is reflected in a society of 2,000 years ago, and not one that is a contemporary society today?
A. I think the fundamental issue, your Honour, is whether or not we accept the Bible as being the word of God, and God, as the sovereign, has the right to decide on those

matters. So that is how we view the Bible. But we realise that society in general doesn't have that view.

Q. No, but you have moved away from a number of the precepts of early Christian society - we have discussed slavery, but I think yesterday I discussed with one of your colleagues the role of women in the church itself and their capacity to speak, and so on. You probably heard that exchange?
A. Yes, I heard the discussion, yes.

Q. I mean, a number of things have been put to one side or have been changed.
A. Yes. So if a review of our process - which we will take back - I will take that definitely back to our branch committee and our service department personnel to just have another good look at the procedures, and if we can see a need to make some adjustments in that, that's what we would recommend to the Governing Body. There's no question on that.

Q. So that is it right to understand that if the evidence from this Commission and the gathered expertise of professional people suggests that your process, by not involving women at the decision-making level, was a flawed process - would it be open to change?
A. I definitely think it is open to change. It always is. We've been reviewing the process for years, decades.

Q. I'm specifically asking about the decision. Would it be open to change the composition of the decision-making body?
A. Of the judicial committee?

Q. Yes.
A. I can't see how it could, personally, but then I'm not the decision-maker on that. That would be the Governing Body. But scripturally --

Q. But some things can change, for example, the role of women in the church and their capacity to speak, but whether or not women are decision-makers can't change; is that the idea?
A. As I understand it.

Q. Now, why is that?
A. Because the scriptures are very clear, that an

overseer or an elder has to be a man. There's no provision in the scriptures for a woman to be an overseer. It is the elders who are the shepherds and would judge in these matters. I think that's dealing now at the situation of the judicial process with the wrongdoer, not with the victim. The earlier processes that we've been talking about and listening to - I think there is certainly scope there for women to be involved in those steps.

Q. What you are looking at is a determination of whether or not the allegation is true.
A. That's correct.

Q. All that I'm asking is, leaving aside whatever might be the other role of men in the church - I don't go there - but why is it not open to say, now, given that you, as Jehovah's Witnesses, have created this process with its investigation and determination steps - why is it not open to change that process to include women in the decision-making component?
A. Well, it's probably a question that I'm not authorised to really give you a definite answer on. But it is certainly one that I will be taking back to our branch committee and passing on to the Governing Body, because I can see the reasoning behind the suggestion, the recommendation.

Q. I assume you would accept that women bring a different perspective and a different understanding to an issue such as whether or not a young girl or a woman was sexually assaulted than a man might bring?
A. Most definitely. That's - women have the motherly instincts that a man just can't have.

Q. And what your process does at the moment is exclude them from the decision-making component altogether, doesn't it?
A. So when you refer to the decision-making, excuse me --

Q. The determination of whether or not the allegation is true?
A. No, women could be involved in that step. So that's the point I was trying to make --

Q. As decision-makers?
A. To - well, she's listening to the comments - for example, a mother listens to her daughter.

Q. No, no, no. We're talking about the processes which you have for determination, and ultimately judicial determination, of the truth of the allegation. Those processes, at the moment, exclude men *[sic]* - we've agreed on that.
A. Exclude women.

Q. Exclude women.
A. I don't think it's so entirely, because women can be involved in the - that's talking about the investigation process.

Q. No, I'm talking about the decision-making process.
A. Whether or not it is --

Q. Whether or not it is true.
A. Yes. So I don't see --

Q. Women are presently excluded from that decision, are they not?
A. No, they could be involved in the discussions with the elders who have been investigating it. Like there are many situations where women have perhaps been involved in talking to the victim or maybe the victim is only comfortable to talk to a woman. She is sharing her observations with the elders. But there is nothing wrong with that. Nothing --

Q. Well, I think I have exhausted my capacity to get to the real issue, but the real issue is whether the church's processes will allow for women to participate in the actual decision. Do you understand? That's the question.
A. In the decision of whether it needs to be a judicial matter or not, establishing guilt.

Q. The truth of the allegation.
A. Mmm, yes.

MR STEWART: Q. Perhaps it can be put like this, leaving the word "involved" out of it. On the present structure, a woman cannot be a decision-maker on whether or not the allegation is found to be sufficiently proved?
A. She wouldn't be one of the two elders investigating, I could narrow it down to that.

Q. So she cannot be the decision-maker. And, equally, on

the judicial committee, a woman cannot be a decision-maker? A woman might be involved giving evidence --
A. Right.

Q. -- or whatever, but can't be a decision-maker.
A. No.

Q. The question, then, is do you see scope for that changing, as to who the decision-makers are, and having a woman being a decision-maker?
A. I certainly see scope in presenting that as an option to be explored more deeply than perhaps it has been up until now, yes, definitely.

Q. Mr O'Brien, you have followed these proceedings closely over the last week and a half, I take it?
A. Yes, I have.

Q. I sought to have a message conveyed to you yesterday evening - I hope you got it - and that is as to whether, having listened to it all, you have identified aspects of your process which seem, to you, to require re-examination and change.
A. Yes, I think a number of areas have come up for consideration that we need to now go back and look at much more carefully. One of them is the matter of some clearer documentation for the ones who will be involved in handling investigations and judicial cases - involving child sexual abuse, I'm talking about, maybe specific information just tailored to that, so that the elders would be - have much more at their fingertips in one package, the information they need. That's certainly one observation I will be taking back.

A second consideration would be that in the initial meetings with the victim, or the parents of the victim if it is a minor, that it's very clearly explained to them what the options are for them and what the implications are for either option, knowing that they will have the full support of the elders whatever is their decision.

Q. By "options", you are referring to the possibility of reporting to the authorities?
A. Reporting to the authorities or, if they wanted it handled just within the church itself, leaving them make the decision.

Q. Yes.
A. So those are two factors that stand out significantly to me that we need to - and probably, then, in the process, the various steps that are taken from the initial discussion with the victim, or the victim's parents in the case of a minor, each step of the way ensuring that the victim or the parents understand what the next step is going to be, so there is complete clarity in the mind of those, what the process is all about. Because I think that is a weakness that has been identified that needs clarification.

Q. Anything further you have identified?
A. I think they are probably the three major things. I do take on board the point of more involvement with women in the process, if that can be accommodated. I'm not in a position, really, to state whether that would be or would not be, but I can certainly take that as a matter on the agenda for consideration.

Q. You would have heard quite a bit about the question of the sufficiency of evidence, in other words, what has been referred to as the two-witness rule. Firstly, from what you have heard and the way in which it operates, do you consider it to be justified?
A. Yes, again, because we accept that scriptural direction that did come from Christ himself, that we don't see we have authority to go outside of that. But that's in establishing whether or not there will be a judicial committee to follow. It doesn't mean that we don't believe the victim or that we wouldn't take certain precautions and action where we can, but it just means that we don't have a basis to form a judicial committee at that point.

Q. Insofar as the judicial committee itself is concerned, so not dealing with the step before that, what about on the question of whether the victim herself must give evidence, in circumstances where there is no confession and no other witness, or no second other witness?
A. That she must give evidence? Sorry, maybe I just didn't quite understand the point of the question.

Q. My understanding of where things landed with Mr Spinks yesterday was that when it comes to the judicial committee hearing itself, unless there is a confession or two other independent witnesses, it will be necessary for the victim herself to give evidence.

A. No, she would have been able to do that in the written statement. She wouldn't need to appear before the judicial committee, or before the accused.

Q. What about the requirement that the victim must face her attacker?
A. No.

Q. Or, as it is put differently, that the accused has a right to be faced by his accuser?
A. I think the information that has been presented from the Shepherding book indicates that that is not necessarily the case. Not even limiting it to child abuse, even if the victim is timid, they may not feel capable to face the accused. If that's the case, the elders would quite happily accept a written statement.

Q. We will go back to what Mr Spinks said himself, and the documents that he referred to, which were tendered as exhibit 29-020, but do I understand from you that you accept that an appropriate process would not require the victim to give evidence in the face of her attacker or her alleged attacker?
A. Definitely not. If she felt she was not able to do that, that wouldn't be a requirement. In fact, she would only be required to do it if she wanted to.

Q. And with regard to the possible outcomes of a judicial committee hearing, reproval, of course, leaves a known offender in the congregation and in the family, if the offender is in a family - not so?
A. Yes.

Q. And disfellowshipping leaves a known offender in the family and/or at large in the community?
A. That's true.

Q. Both those problems can only be resolved with systematic reporting to the authorities; would you agree?
A. Yes, I - well, that's true. But it doesn't necessarily remove the person, as I understand, from the community. If they were imprisoned, it would, but once they are released, you still face the same dilemma that we do, that the person is free in the community.

Q. You may be aware, Mr O'Brien, that in New South Wales, at least, there is legislation that deals with that

question of serious sex offenders coming to the end of their terms in gaol and as to assessments then being made as to whether they should be released. And there is a complicated process involving many professionals and reports and so on. Are you aware of that?
A. Yes. The challenge that I see with the process for ourselves as a religious organisation, and also with the judiciary, is that there is a wide range of acts that constitute child abuse - like, to us, an adult sexting with a minor, we would regard that as child abuse and they would be dealt with judicially.

Q. So would the law.
A. Right. But would they receive the same type of penalty as, say, somebody who raped a child? That's what I'm just saying.

Q. Obviously not, or presumably not, but that would be up to the particular court.
A. Certainly.

Q. But our point is this, Mr O'Brien: you, as the Jehovah's Witness organisation, don't have the power to intervene in a family in such a way as to ensure protection of children; you can give advice and counsel, but you can't really do more than that, can you?
A. No; that's correct, yes, we can't take --

Q. Whereas child protection authorities, in certain circumstances, can?
A. Yes.

Q. So would you at least accept this: it warrants further consideration by the Jehovah's Witness organisation as to whether they should systematically report child sexual abuse allegations?
A. I understand, listening to Mr Toole and Mr Spinks, that we have no hesitation in doing that, if that's what is required by the law. But we don't see that we have the right to take that prerogative away from the victim or the parents of the victim, if they chose not to.

Q. And that's because of a scriptural principle?
A. Yes, that's right.

Q. With regard to redress, by which I mean responding to and potentially compensating victims of child sexual abuse

within the organisation, I understand that in Australia, the Jehovah's Witness organisation doesn't have a redress scheme?
A. No, and that's because we've never had a request, so far, for redress, so we haven't --

Q. Well, you recognise that maybe there has been no request for redress because no scheme has been available?
A. I couldn't say why victims haven't requested that.

Q. I'm suggesting that it may not be a good reason to not have a scheme, because there have been no claims; it may be that a scheme will be the very thing that gives comfort to a lot of people that their allegations are taken seriously and that they actually get compensated?
A. Yes, certainly.

Q. Is that not something that the Jehovah's Witness organisation should consider, having a redress scheme?
A. Yes, I agree with that.

Q. Because if we consider [BCB]'s case as an example --

THE CHAIR: Q. Just a second. You know that the Commission's been looking at the issue of redress, I assume?
A. I do, yes.

Q. And it is fairly clear that the Commission will be recommending a response which brings together all of the institutions where there may have been problems, to contribute their fair share - you understand that?
A. I recall that from the closed hearing we had with yourself.

Q. Are Jehovah's Witnesses prepared to contribute to such a scheme?
A. I'm not in a position to personally give that undertaking, your Honour, but certainly --

Q. Who is?
A. -- we can present that and discuss that.

Q. Who is?
A. That would be a decision - if it is the Watchtower Bible & Tract Society, then that would be a decision for the 26 members. I don't have executive powers over the

committee or the members. But I can certainly present that, because I can see that that is a need that needs to be considered.

Q. Would you recommend that the church join in such a scheme?
A. I don't know whether I would recommend that the church join in with other organisations, but certainly that we have some redress scheme of our own to care for victims who are Jehovah's Witnesses. I would agree with that.

Q. Why wouldn't you recommend that you join with others so that there is a uniform response across the country?
A. If I may just indulge, your Honour, when we had the closed meeting with yourself and others, that was a matter that I think it was almost universally felt as a last option by those who were assembled, for a variety of reasons. I think some may feel that - would it be fair on smaller organisations and unfair on the - or, rather, unfair on smaller ones, fairer on the larger ones? To manage it I would see it as a much greater difficulty than for the individual organisation to provide their own scheme.

Q. You must have a different recollection to me. But the theory would be that there be an organisation constituted to administer the scheme, and then each organisation contributes in accordance with its identified number and extent of survivor needs. You understand?
A. Yes, I understand the principle you mentioned.

Q. And why wouldn't you join in that?
A. Well, again, I can't say that we would or wouldn't, but --

Q. Sorry, why wouldn't you recommend that you join --
A. Yes, well, I'd have to give it good consideration to recommend it. But I wouldn't rule out that we wouldn't consider that or that I wouldn't recommend that. But we would have to see what the parameters were, what the - say, the considerations were for the organisation.

Q. The matter has been now talked about for months. Has your organisation considered it in any structured way?
A. No.

Q. We have had discussion papers, we've had roundtables.

A. No --

Q. We've had public hearings.
A. Yes, the roundtable discussion, I came away from that without any real conclusions. I felt - maybe I didn't get the right, what do you say, message from it, but I didn't feel that it was a universally agreed-to option. I haven't read or heard any more about it since, to be honest.

MR STEWART: Q. On the question of joining any form of scheme and a decision in relation to that, you said that would be a decision of the Watchtower Bible & Tract Society and the 21 members. Why would that be so? Why not the Jehovah's Witness organisation itself, separate from one of the corporations that it uses?
A. Well, the challenge would be if it's an unincorporated group, an association of people, providing the funding I would see as a major difficulty for victims who have a just and fair claim.

Q. Just dealing with the decision making on it, the decision would have to be made by the Governing Body, wouldn't it?
A. As far as providing redress?

Q. Yes, well, as far as having a redress scheme or insofar as joining some other scheme along the lines that his Honour was engaging you about, with other organisations?
A. Yes, it would have to be presented to the Governing Body for approval, but we would have to provide the scheme for victims in - within Australia. The Governing Body wouldn't be taking that into their consideration.

Q. Because the corporation you are referring to is the Australian corporation?
A. The Watchtower Bible & Tract Society of Australia.

Q. And that is an instrument of the Jehovah's Witness organisation itself - not so?
A. It is, and it's the one that can legally handle financial matters, whereas Jehovah's Witnesses themselves or the branch committee --

Q. And you as the church organisation use that corporation to your ends - not so?
A. Yes, for a variety of reasons.

Q. And so it must do what you say it must do?
A. Sorry, I just missed that?

Q. So it must do what you say it must do - not you personally but the organisation?
A. Yes, what the members approve. It's true. It still is a legal organisation, it has to have membership approval.

Q. But you couldn't conceive of a situation of the members of the organisation doing something other than what the branch committee was happy for them to do?
A. That's true, and I think it's because the branch committee wouldn't recommend something that we didn't feel was proper.

Q. So it is a bit artificial, isn't it, to say it is up to the 21 members of the corporation, when the corporation is actually, and factually, under the control of the branch committee?
A. No, I don't think so, because the branch committee, as I mentioned before, is 12 people, who would have to discuss this and provide that, then, and they - most of the branch committee are members of the Watchtower Bible & Tract Society in any case.

Q. That probably illustrates the point. But moving on, Mr O'Brien, Mr Geoffrey Jackson, who is a member of the Governing Body, as I understand - he heads the teaching committee; is that right?
A. He's a member of two committees. My understanding is that each of the Governing Body members are members of two committees. I understand he is a member of the writing committee and the teaching committee.

Q. I have to say, my information, as at September 2014, also puts him as a member of the personnel committee.
A. Well, that's different to my understanding.

Q. We will leave personnel out of it for a moment. So - but Mr Jackson is - I'm not sure what the designation is, whether it is coordinator or chair or responsible for, but he is, in effect, the head or responsible for the teaching committee, isn't he?
A. No, I don't think - the chairman is simply, like - the similar role of being a coordinator of the branch

committee, is that he just coordinates the work of that committee, but he's not - he doesn't have, like, executive authority over the committee.

Q. Yes. Very well. That's what I'm getting at. So he is a coordinator of the teaching committee?
A. I don't know. I know he is a member of the teaching committee and of the writing committee. But his actual function I don't know.

Q. And the teaching committee has the responsibilities set out in the branch organisation manual that we were looking at a few minutes ago; is that right?
A. Yes, the role that is mentioned there.

Q. And that includes what will be taught in the various Kingdom of Ministry schools and a whole plethora of other means by which publishers around the world are taught about your word; is that right?
A. Some of the schools - some of these schools would be the responsibility of the service committee. If it is schools for elders and travelling overseers, the service committee would care for the --

Q. Shepherd the Flock of God is the guiding textbook which would guide also the activities of the teaching committee?
A. Again, I think that would be probably something approved by the entire Governing Body, but perhaps coming more from the service committee, because it's service related.

Q. I understand that you have not served as a member of the Governing Body, so I'm asking you from what your understanding is. But your understanding is that the seven members of the Governing Body, as a Governing Body, meet weekly, do they, every Wednesday?
A. Yes, so those who are present meet weekly.

Q. It will be that Governing Body as a whole, or those who are present, who would authorise the various publications and guides and guidelines, and so on; is that right?
A. They would give the final approval for the publishing of them, yes.

Q. You will have heard yesterday that senior counsel representing the Jehovah's Witnesses in Australia and the

Watchtower Bible & Tract Society of Australia said that Mr Jackson would not be likely to be able to assist this Commission, because his role is in the translation of matters. Now, that, do you accept, is in clear variance to what you have explained in your evidence?
A. No - sorry, it's not. The translation, it comes under the writing committee, as I understand, which is what Mr Jackson is a member of.

Q. But he's also the coordinator of the teaching committee that has many other responsibilities, and not translation - not so?
A. Yes, he - as a member of the Governing Body, he has a number --

Q. So can you explain, Mr O'Brien, how it came about that senior counsel representing the organisation was given instructions that Mr Jackson's role is confined to the translation of matters, when it clearly is not?
A. His role, as I understand, is principally translation, but translation is part of the writing committee. He - as a Governing Body member, he has numerous functions to perform, not just as a translator.

Q. Yes, indeed. And as a consequence of those numerous functions, he would have knowledge across a whole scope of activity of the Governing Body - not so?
A. I guess he would have --

Q. Far beyond translations?
A. Yes, yes, more than translation.

THE CHAIR: Q. Mr O'Brien, did you give those instructions to senior counsel?
A. The instructions regarding Mr Jackson?

Q. Yes.
A. Yes.

Q. It led me to believe that there was little that Mr Jackson could add to the discussion, and no doubt that is what you expected would happen; is that right?
A. That's true, and I still concur with that.

Q. Well, I'm starting to form a totally different impression, I have to tell you.
A. Well, if I could explain that Mr Jackson - his two

principal roles, as far as I understand, in the Governing Body are with the writing and - what's the other committee? The two committees I have mentioned, the writing and --

MR STEWART: Q. Teaching?
A. And part of that involves translation. Mr Jackson was in the Pacific Islands for many years, understood many of the Pacific Island languages, helped --

THE CHAIR: Q. I understand that he may have a role in translation. But I'm now coming to understand he has a significant role in relation to teaching, but also the general affairs of the Jehovah's Witnesses?
A. I - he wouldn't have involvement in matters to do with the coordinators' committee, which handles legal; nor with the service committee, which handles service matters.

Q. But he sits at the top with others in relation to all of those committees, doesn't he?
A. No, they are - different Governing Body members are assigned specifically to different committees.

Q. I understand that. But, nevertheless, the Governing Body, I assume, has the ultimate say in all things?
A. When things come back to them as a Governing Body, yes.

Q. And he is a member of that?
A. Yes, he's a member of the Governing Body.

Q. He is here in Australia?
A. He is with his father - well, I understand he is still in Australia. I don't talk with Mr Jackson, but I understand his father is gravely ill, very close to death, and that's why he is here, to be with his father.

MR STEWART: Q. Mr O'Brien, how many editions of Watchtower and Awake! are published each year?
A. The Watchtower and Awake! in their public editions are published monthly. There is also a study edition of the Watchtower which is used in congregation meetings. That's also published monthly.

Q. What other publications are regular periodicals to congregations - that congregations would get?
A. We have a monthly item called the kingdom ministry, which sets out the schedule for our mid-week meetings; and

then annually there are also released books or brochures. There's a Yearbook published every year.

Q. And how many articles are there generally in a Watchtower magazine?
A. In the public edition - well, there are 16 pages, so depending on the size of the article, maybe six --

Q. And Awake!?
A. Awake! would be similar.

Q. Sixteen pages?
A. And the study edition of the Watchtower is 32 pages.

Q. And now, as I understand it, some publications or articles are specifically identified for group study by congregations during the course of the month?
A. Yes, that's specifically The Watchtower study edition.

Q. So the whole of the study edition will be studied through the course of the month?
A. Yes, or - in pursuing *[sic]* months. The November issue, for example, may not be studied until January/February. But there will be four or five study articles in that which would cover one month.

Q. With regard to the guide to publishers, the baptismal guide - are you familiar with the one I'm referring to? I may be using the wrong terminology.
A. "Organised to Accomplish Our Ministry"?

Q. Yes. That is issued, as I understand it, when someone is baptised; is that right?
A. Prior to that - when a person qualifies to share in the public preaching work, that's with the congregation, that's when they can obtain a copy.

Q. And then they have, as it were, a personal copy?
A. They do.

Q. And they treasure it, I take it?
A. Yes, well, that's then the book they use to review the questions for their baptism afterwards.

Q. Then when a new edition is published, maybe 10 years later, do they then get a copy of the new edition and use that? Does it replace the earlier one?

A. Yes, everyone in the congregations would receive the new updated copy.

Q. And the old ones are discarded or filed away for historical purposes?
A. Yes, whatever they wish to do with them.

Q. Not regarded as current?
A. No.

Q. In Australia, I understand from your statement that there are 821 congregations; is that right?
A. That's right.

Q. There are 68,000 active members?
A. That's correct.

Q. And if my arithmetic has not let me down, that would give an average congregation size of 83?
A. I guess, on average, but some are much larger, some smaller.

Q. Yes. And congregants, as I understand it, tend to know each other and associate closely with one another; is that right?
A. That's true, yes.

Q. Would it be true that amongst the Jehovah's Witness faith in Australia, there is a strong sense of community?
A. Yes, I think that's very true. We probably refer to one another as brothers and sisters.

Q. And the congregation members gather to worship with each other twice a week and spend much of their social time in each others' company?
A. Yes, twice a week, the congregation meetings. We probably also meet together again on a different occasion to share in our preaching activity, and maybe at other times, too.

Q. And they meet up to three times each year with larger groups at gatherings such as assemblies and conventions, where friendships continue to be maintained and strengthened; would that be right?
A. It would be three times. We have two - twice a year we have a one-day, what we call an assembly, a circuit assembly, and once in the year we will have a three-day

convention.

Q. And as a faith, each member is genuinely concerned with the welfare of their fellow brothers and sisters as they refer to each other - that would be right?
A. That's correct.

Q. As one article, I think, describes it, would you accept this: the congregations are essentially a collection of overlapping families?
A. Overlapping families and individuals. Not all - like I'm the only person in my family, but now I've married my wife, but prior to that, I was the only member of my family who was a Jehovah's Witness.

Q. And so for a Jehovah's Witness, his or her social network is amongst other Jehovah's Witnesses?
A. I would say generally that would be the case, yes.

Q. I want to put to you a scenario. If you take a victim of sexual abuse in a congregation, where her attacker is in the congregation, and she reports that to the elders, and they cannot act judicially because there is not sufficient evidence - take that scenario. Now, that can happen, I think we've established that over the last 10 days?
A. That's possible, yes.

Q. Now, take the scenario that she feels silenced and unhappy with the organisation's response as a consequence of that. Do you see that?
A. Yes.

Q. And she cannot bear to be in the same organisation as her abuser and have to see him or face him, and as a consequence, she decides to leave the Jehovah's Witness organisation. Do you follow the scenario?
A. Yes, I've got that.

Q. Now, to do that - in other words, to leave - she must disassociate from the organisation; that's right, isn't it?
A. No.

Q. Well, if she leaves otherwise, she would, in any event, be regarded as an apostate?
A. No. If I could explain, to correct your thinking on that? If a person, for whatever reason, wishes to attend a different congregation, they are at liberty to. A person

is not bound to be in any particular congregation at any time. If, for personal reasons, they decided they no longer wanted to attend any congregation, to stop associating with Jehovah's Witnesses, they would be viewed as just an inactive Witness, and they are free to resume their activity any time they wished.

If a person wants to take the step of actually disassociating themselves, wanting to be known no longer as one of Jehovah's Witnesses, and have that known to the congregation, that would be a step they would take, and we would try to assist them, if there was some way we could help them remain in the faith, but if they were adamant, then that would be their decision. But that's what disassociation is.

Q. Let's take the scenario where this woman feels so silenced and unhappy in the organisation as a consequence of what I set out that she decides to disassociate, and that then means, as it is put in the manual, making known a firm decision to no longer be one of Jehovah's Witnesses; is that right?
A. That's right. That's disassociation, yes.

Q. As I understand it, the same consequences then flow, insofar as how she is then treated by the remaining congregants, to if she had been disfellowshipped?
A. So that's because she has made that decision, not because the congregation has. A person who is disfellowshipped is disfellowshipped by the congregation for whatever actions that disqualified them. A person who disassociates themselves, they personally decide on that action, knowing that the consequences of disassociation mean that they will be cutting themselves off from the congregation, not the other --

Q. Yes, indeed, but you see in the scenario that I have painted for you that this person's feeling is so deep that she wishes to disassociate from the congregation. Now, the consequence of that is that those, as it is said, in the truth, being Jehovah's Witnesses, are not allowed to associate with the disassociated person - that's right?
A. That's true. But it's because of the person's decision. If they just remained inactive, if they just wanted to not be coming along to the meetings, then they can still have free spiritual association with any of Jehovah's people.

Q. I'm dealing with a scenario, as you well appreciate, where this person, because of the way in which her abuse occurred and allegation was dealt with, she wishes to disassociate.
A. Okay.

Q. And the consequence of that is that those who remain are not allowed to fraternise or converse with the disassociated person; is that so?
A. I agree.

THE CHAIR: Q. Mr O'Brien, what happens in the situation - I will go back a step. Do the elders of a particular congregation accept an obligation to care for the safety of those in that congregation?
A. Yes, that's why they are shepherds - to care for the flock of God.

Q. And if an allegation is made by a woman that she has been sexually abused, which the elders, or at least the judicial committee, or those investigating, accept is true but there is not a second witness --
A. Yes.

Q. -- in that situation, the elders would be continuing to accept the abuser as a member of that congregation, notwithstanding that they knew that he had sexually abused, wouldn't they?
A. Yes.

Q. How is that reconciled with any obligation they have to care for the safety of those in that congregation?
A. Well, then, I think it was explained by Mr Spinks, that in that situation the elders would meet with the alleged abuser, even though it can't be proven, they would still have taken the victim's accusations to him or her and then, as a result of that, would give very clear direction on what restrictions would apply to their association with children, with others in the congregation, and they would monitor that.

Q. And would others in the congregation know that that person had those restrictions placed on them?
A. No.

Q. That means that supervision is confined to when the

elders or an elder is present and observes the abuser?
A. That's true. But if it was reported to the elders - if it came to their attention that the person was in violation of the restrictions, well, then the elders would take firmer action. A person could even be disfellowshipped if they disregarded --

Q. But that is dependent on the elder observing --
A. Or it being reported.

Q. How is it going to be reported if the others don't know to report it?
A. Perhaps - yes, I can't say. I don't know.

Q. It wouldn't happen, would it?
A. No.

Q. Do you think that's a proper discharge of the obligation - that you say they accept - to care for the safety of that congregation?
A. Again, it's governed by that scriptural command or requirement that elders are not authorised to go beyond that, that the matter be established at the mouth of two or three witnesses. So that they can take whatever care they feel is necessary to try to protect the congregation, but beyond that, unless there is a second witness to a similar type of event, or the same, then the elders' hands are tied with warning the person and --

MR STEWART: Q. Can I take you to tab 120. That's Shepherd the Flock of God at page 115. That's Ringtail 116. Do you see in paragraph 5 - this chapter 10 is headed "Matters Related to Disfellowshipped and Disassociated Ones", and you will see in paragraph 5 it says:

> *Disfellowshipped and disassociated ones are generally expected to make their own arrangements for transportation to and from congregation meetings. However, in some instances a disfellowshipped or disassociated individual who is making a determined effort to regain a right standing with Jehovah may be in a situation that prevents him from obtaining transportation. It may be that he has no car and that family members or others are*

not able to help him. Perhaps he cannot afford public transportation, or it is not available in his area. It may be that the distance involved, personal safety, or severe weather make it inadvisable to walk. In cases of such desperate need, the elders can determine whether some assistance may be provided ... Such assistance would be viewed as similar to public transportation in that there should be no fraternising or conversing with the disfellowshipped or disassociated person.

That's the principle, isn't it - no conversing or fraternising with the disassociated person?
A. That's correct, yes.

Q. Then in the next paragraph:

If members of the congregation are known to have undue association with disfellowshipped or disassociated relatives who are not in the household, elders should counsel and reason with those members of the congregation from the Scriptures.

So the position is that if a disassociated person is in the same household as a Jehovah's Witness on everyday matters in the household, there can be that association. But if they are not in the same household, the same rules apply as if they were not in the same family?
A. Yes, so with disfellowshipping and disassociation, if they live in the same household, then it's understood that it's referring, then, to spiritual association. Obviously, if it is a husband or wife or a child or mother or father, of necessity, there has to be conversation. But it's the spiritual association that would now be restricted.

Q. But if they are not in the same household, then social association is also restricted?
A. Yes, kept to a minimum, at least.

Q. You see there is then a reference there:

Review with them information from the "God's Love" book, pages 207-208 ...

I would like to take you to that. Part of this document is already in the tender bundle, but not this part. So are we to understand that these pages here, 207 and 208, are the guidance that is being referred to at what we were looking at a moment before - is that right?
A. That's correct, yes.

Q. You will see halfway down page 207, starting on the right-hand side, it says:

The Watchtower of September 15, 1981, page 25, stated: "A simple 'Hello' --

A. Sorry, I have just missed where you are. Paragraph 2.

Q. Yes, halfway down the page:

The Watchtower of September 15, 1981, page 25, stated: "A simple 'Hello' to someone can be the first step that develops into a conversation and maybe even a friendship. Would we want to take that first step with a disfellowshipped person?"

Now, we are to understand that as applying also to a disassociated person, aren't we?
A. Yes.

Q. Then the question is asked:

Is strict avoidance really necessary?

and the answer is:

Yes, for several reasons. First, it is a matter of loyalty to God and his Word. We obey Jehovah not only when it is convenient but also when doing so presents real challenges. Love for God moves us to obey all his commandments ...

and so on. At the foot of the next page, 208, starting the second line from the bottom, you will see it says:

Loyal Christian family members do not look for excuses to have dealings with a disfellowshipped relative --

that applies also to a disassociated relative, not so:

not living at home.

A. Yes.

Q. Then:

Rather, loyalty to Jehovah and his organisation moves them to uphold the Scriptural arrangement of disfellowshipping. Their loyal course has the best interests of the wrongdoer at heart and may help him to benefit from the discipline received.

Indeed, there are other publications that set out these forms of principle, aren't there?
A. That's true, yes, that's an understanding I have.

Q. Now, the consequence in the scenario that I've put to you is that this survivor of abuse, who wishes to leave the organisation, is put to a choice, isn't she: she either stays in the organisation or she leaves and, thereby, potentially loses her whole family, or much of it, depending upon how many remain in the Witnesses, and her social network?
A. No, I think there's that other option that you have missed there, by just ceasing her activity in the congregation --

Q. Well, I am presupposing, Mr O'Brien, that her feeling is sufficiently intense that she wishes to disassociate from the organisation.
A. Yes. So then she would appreciate the implication of that.

Q. Yes. And her friends and family would face the implication, too, that they would have to disassociate from her.
A. Yes.

Q. It is an impossible choice, isn't it? I mean, no-one - is it not right, Mr O'Brien - should be put to the choice of remaining in an organisation which she feels is protective of her abuser, and losing her family and social

network?
A. Well, I can only be guided by what the scriptures say on that.

Q. Well, do you accept that it is psychologically devastating and cruel?
A. The whole purpose of disfellowshipping or disassociation is to help the person see the benefits of associating, so a disassociated person, a disfellowshipped person, is free to come back. A disassociated person particularly, they don't have to go through a lengthy procedure to come back, whereas a disfellowshipped person has to prove their repentance suitably.

Q. It makes the organisation a captive organisation, doesn't it?
A. I don't follow what you mean by that.

Q. Well, it makes it incredibly hard for someone to leave because of the huge pain, suffering, cruelty that she must face if she does leave.
A. I don't believe so.

Q. Do you appreciate, Mr O'Brien, that this point of shunning, as it is called, is the one that probably makes people the most angry around the world amongst the ex Jehovah's Witnesses?
A. But if it is disassociation - again, it's a choice they make. They don't have to disassociate themselves to stop associating. They don't lose their spiritual or familial association by being inactive.

Q. I can see you might get some support for it by the manner in which First Century Christians organised themselves, but is it justified, in today's world and today's morality, to treat people in this way?
A. Well, personally, I - what is accepted as today's morality in many ways I wouldn't say is acceptable to a Christian.

MR STEWART: Your Honour, I tender the Branch Organisation January 2015 --

THE CHAIR: Before you do that, I will mark the "Keep Yourselves in God's Love" extract as 29-027.

EXHIBIT #29-027 EXTRACT FROM "KEEP YOURSELVES IN GOD'S LOVE"

MR TOKLEY: I wonder if I might be heard briefly on the tender --

THE CHAIR: Sorry, on the "Branch Organisation" document?

MR TOKLEY: Yes, your Honour. I wonder if your Honour would be so good as to just accept the pages that have been referred to, but to still keep confidential those matters that have not been referred to. There is no public interest in those matters that have not been referred to. There is no purpose to be served --

THE CHAIR: I haven't read the whole document. I don't know.

MR TOKLEY: Your Honour, I imagine if they were relevant, my learned friend, counsel assisting, would have taken Mr O'Brien to those matters. The concern is simply that they are confidential to branch committee members, they are not for general distribution within the branch itself. We would seek to maintain their confidentiality.

THE CHAIR: So you are telling me that members of the church don't know the rules that govern that church?

MR TOKLEY: Your Honour, I suspect that they do in the sense that they are probably told them, but the document itself is confidential. I can understand --

THE CHAIR: But if they know, then protecting it now is a little late, isn't it?

MR TOKLEY: Your Honour, not really. Not really, your Honour. It's to protect that which is regarded as confidential within the organisation, and on the other hand, there is no public interest to members outside --

THE CHAIR: I don't know about that, because I haven't read the whole document. But I can understand that the bits that we have discussed so far fit into the context of the whole document. Look, I think you would have to persuade me that there was any particular section that, by reason of the content, needed to be kept confidential, before I would take that step. You realise that royal

commissions, by convention, work in public.

MR TOKLEY: Yes, your Honour.

THE CHAIR: And the public has a right to know what it is we're looking at and, in relation to the organisation for which you appear, how that organisation is structured and managed to deal with these sorts of problems --

MR TOKLEY: Yes, your Honour.

THE CHAIR: The rules of the organisation are obviously important.

MR TOKLEY: They are, your Honour, and I don't argue against those parts which are relevant to the matters the Commission has to determine being made public. It's those parts which have not been referred to at all and which would not be of any assistance to the Commission which I seek to protect.

THE CHAIR: At the moment, it doesn't help me, because I haven't read the whole document, and you haven't given me any content beyond the fact that they haven't been referred to and, therefore, they shouldn't be --

MR TOKLEY: Understood, your Honour. If your Honour would be so good as to give us the opportunity to put a brief submission in writing, which your Honour can then consider at your Honour's leisure. If your Honour rules against me on that point, then so be it. Of course, we would accept the ruling. But if your Honour would give us the opportunity, I would be grateful.

THE CHAIR: Mr Stewart?

MR STEWART: Your Honour, I would certainly resist any restriction on the document, for two reasons: first, I, too, haven't had the opportunity to consider the whole of the document, so I'm not sure what other aspects --

THE CHAIR: Should we leave it on the basis, as Mr Tokley puts it, that we will keep what hasn't been referred to confidential at this stage, subject to him persuading us with a written submission?

MR STEWART: I am content to deal with it on that basis,

with some time frame, your Honour.

THE CHAIR: I will make the document exhibit 29-028. In terms of what has been referred to, if I look at the index - and I seem to have a page missing --

MR STEWART: Chapters 1, 2 and 3 were referred to.

THE CHAIR: Chapters 1, 2 and 3 I would have thought, on any view, have to be relevant, Mr Tokley; would that be right?

MR TOKLEY: Yes, your Honour.

THE CHAIR: I haven't looked at the content, but what about chapters 5 and 7?

MR STEWART: Yes, 5 and 7.

THE CHAIR: Mr Tokley?

MR TOKLEY: Your Honour, I can't see how 5 or 7 would assist, in the sense that by the looks of it, for example, under 5, it deals with accounting matters, allowances, auditing --

THE CHAIR: Its heading is "Publishing committee", which I assume means the publication of educational and other material.

MR TOKLEY: I think, your Honour, it deals with the financial aspects of such matters.

THE CHAIR: I don't know.

MR TOKLEY: No. That's why I seek the permission --

THE CHAIR: What about chapter 7?

MR TOKLEY: Chapter 7 is in relation to organisational matters. Chapter 7 may be relevant to your Honour's purposes, and I don't seek to argue against that.

THE CHAIR: What about chapter 8?

MR TOKLEY: I would have to review chapter 8, your Honour, to make sure.

THE CHAIR: What I will do at the moment is I will allow publication of chapters 1, 2, 3 and 7, and if you can give me and the Commissioner a submission tomorrow, I will rule in chambers in relation to the matter on Friday.

MR TOKLEY: Thank you, your Honour.

THE CHAIR: So the whole document is exhibit 29-028, but I order that the chapters other than 1, 2, 3 and 7 at this stage not be published. Yes?

EXHIBIT #29-028 DOCUMENT HEADED "BRANCH ORGANIZATION JANUARY 2015" (CHAPTERS OTHER THAN 1, 2, 3 AND 7 ARE NOT TO BE PUBLISHED AT THIS STAGE)

MR STEWART: I have no further questions of this witness, your Honour.

THE CHAIR: Does anyone else have any questions?

MS DAVID: Yes.

<EXAMINATION BY MS DAVID:

MS DAVID: Q. Mr O'Brien, my name is Ms David, and I appear on behalf of [BCG] in these proceedings. Just one area of concern that in my view has been highlighted through these proceedings, and that is the manner in which the scriptures are used to assist a victim. Of course, it is accepted that it is an important part of the healing process --
A. Particularly spiritually, yes.

Q. Spiritually. Again, I want to emphasise that I would think that you would agree that the Commission proceedings highlight the need for, really, a comprehensive approach, including spiritual, that must have psychological or other care given to the particular person abused, so not just spiritual guidance?
A. True, yes, I agree.

Q. What concerns me - and I don't mean any of this as a criticism - is the way in which, sometimes, the scriptures have been used, for example, in the case of [BCG]. She has given evidence that she doesn't recall, in her particular case, receiving any scriptural guidance,

other than that she was essentially told in a letter from head office to keep her tears in a bottle. That particular document is tender bundle tab 30. Perhaps if that can be brought up, please. This was in response to a very long and rather - a letter from a clearly distressed victim of abuse, in which she had talked about the fact that she had been - essentially, she had a life sentence by reason of the abuse on her, and she spoke about her sister. She was clearly distressed. I won't repeat all the distress, but it's obvious. But in the response, she was essentially told, if you would agree, in paragraph 2 of that letter, firstly, "Always Throw Your Burden on Jehovah", and then she was told that:

> *The heart warming prayer of David is appropriate where he entreated Jehovah to preserve his tears in his "skin bottle".*

Now, it is clear from her evidence that the manner in which she understood that was to silence her, to bottle it up. So what I'm asking you is how you see the organisation perhaps addressing how those scriptures are ministered to ensure that victims don't improperly internalise a bit of scripture to the point where they believe they have to bottle their pain - for example, as in this case?
A. Yes, so if that's how she interpreted it, it's a shame, because it's not the meaning of the scripture. It means that Jehovah would - he would preserve her tears. He would take them to himself, he would remember them, and he wouldn't forget them, because now they are kept in a skin bottle. But the point you are making is that she didn't interpret it that way, from the letter.

Q. Yes.
A. Well, I think the article that is referred to there, in The Watchtower April 1, 1996 - and there are many articles - this is what I would say almost every elder would use on their shepherding calls visiting a victim of any kind, but particularly in this case, articles specific, with scriptures specific to the needs of the victim.

Q. Yes. What I'm saying is: how do you see that that can be done without the danger that somebody like [BCG] will interpret or take that scripture isolated and feel that she must bottle her pain, or that she must just simply bear it and not do anything about it? Do you see any mechanism within your organisation to ensure that those

scriptures are not given in a way that is potentially damaging? Again, I stress I'm not being critical of the scriptures?
A. I agree, it's a good point. I think we do have an arrangement where that could easily be incorporated. We have every six months a circuit overseer visits a congregation. He meets with the elders. He arranges to go with elders on two or three shepherding calls on ones who have a need, and so we could maybe write and ask circuit overseers to specifically ask if there are victims of abuse in the congregation to make that a definite arrangement, if the person wanted to do that, and then ensure proper scriptures are used to console and comfort.

Q. Would you see a benefit of perhaps consulting with an expert professional in the area of dealing with victims of abuse to ensure - to look at a more comprehensive approach of ministering those scriptures?
A. I think the point was made here at the Commission that there are Jehovah's Witnesses, probably men and women, who have expertise in psychology and psychiatry, and I can see definite value in consulting them on what they may suggest could be incorporated by elders who don't have that type of experience when they are shepherding victims such as [BCG] and others.

Q. On the issue of The Watchtower, The Watchtower is studied - I think you have said that there is an edition that is the subject of study meetings?
A. That's true, yes.

Q. If, for example, a person is not at that meeting, or not a member of the congregation at the time that that particular Watchtower is being considered, how would they ever know what was in it?
A. We have provision that is available to every member of the congregation, that was provided to the Commission here, it's called The Watchtower library on CD. Every year, that is updated with the latest publications, and in referencing that, it provides two indexes of publications going back many years and all a person, with even very basic computer knowledge, would need to do would be to type in "Child abuse", "Comfort" - whatever word - and that would bring up every article where that particular point is discussed. So the average Witness is very familiar with that.

We also have an online program, Watchtower Online,

which has publications going back - Watchtower and Awake! publications - from the year 2000 to present, and the same research tool is there, to do a search on any word and it will bring up the publications that discuss that.

Q. To ensure a consistency of approach by elders dealing with this issue in the congregation, do you advise them that they must have regard to all those publications?
A. Yes, the elders certainly are reminded at each visit, almost, with the circuit overseer, when he meets with the Body of Elders, he will talk to them about the needs of shepherding. I'm an elder in a congregation in addition to my other responsibilities, and there hardly would be a visit on a six-monthly basis where we are not given encouragement on our shepherding role in the congregation.

Q. Just coming back to - just looking at it from the perspective of prevention, again, a person within the congregation, the general - the publisher or anybody that is baptised, they would not necessarily be minded to go to read these publications, would they, about child abuse, unless there was a fairly consistent and continual reminder? Is there any process to ensure that there is an ongoing education and prevention program directed at the members of a congregation?
A. I think if you visited the jw.org site, currently, in the broadcasting program for this month - there is one each month - there is a little video animated clip of parents helping their children to know how to defend themselves from abuse.

Q. And that is this month. I guess what I'm asking you: what is the process to ensure that this is consistent from month to month, from day to day?
A. Well, there are so many issues confronting families and Jehovah's Witnesses, like the rest of the community, that we don't just focus on any one, obviously, each month, but from time to time articles are published. There is a publication particularly designed for parents - I think again, that was provided to the Commission - where the parents can discuss the story with their child, and one of them covers protecting themselves from abuse.

MS DAVID: Thank you.

<EXAMINATION BY MS McGLINCHEY:

MS McGLINCHEY: Q. Mr O'Brien, my name is Ms McGlinchey and I appear for Monty Baker in these proceedings?
A. Thank you.

Q. Mr O'Brien, I just want to be clear on circumstances which will lead to a matter of sexual abuse being reported to the police, and it may be best for me to put a scenario to you and you can perhaps answer some questions on that scenario. So the scenario that I want to suggest is that a complaint comes to you of a sexual abuse of a child, and the abuser is the child's father, and the child remains at risk.
A. Okay.

Q. Do you report the matter to the police?
A. In that scenario?

Q. Yes.
A. The report - so there are a couple of issues in the scenario I would have to have clear - it was reported to me by the child to me, or by --

Q. By any source at all.
A. If it was by the mother, I would presume, generally, then we would - I think as Mr Toole brought out earlier, we would ask the mother what she was doing to make sure the child was now protected from any further abuse. If she felt incapable of doing that --

Q. The scenario was the assumption that the child remains at risk?
A. Yes. So if the child remains at risk and there is no responsible adult within the family to remove it from the further risk of abuse, then we would report that to the police.

Q. Have you ever done that?
A. No, I've never had a need. I've never been involved - I think I mentioned in my submission that the only time I've had any involvement with child abuse was when I was a circuit overseer and was simply reporting the matter to the branch office so that it could be followed up by the congregation.

Q. So you have never come across a situation like that

personally?
A. No, never.

Q. In your knowledge of the church, have you ever heard of anybody else reporting a matter to the police - a matter of child sexual abuse?
A. No, I haven't personally but, again, my area of responsibility within the branch committee doesn't deal with child abuse matters generally, but for the Royal Commission, I've taken the interest in it as a member of the branch committee and a director of Watchtower Society, to do that.

Q. And in the interest you have taken in it, just to be clear, you haven't come across or heard of any instances of a report to police?
A. No, but that doesn't mean I haven't heard --

Q. I understand that.
A. -- that it's not happening, either.

Q. Just moving on, the Jehovah's Witnesses has a legal branch?
A. A legal branch?

Q. Yes.
A. We have a legal department in the branch, yes.

Q. Legal department, I'm sorry. And that branch includes two practising solicitors - that's Mr O'Toole *[sic]* and Ms van Witsen.
A. Mr Toole I think.

Q. Mr Toole, I am sorry.
A. And Ms van Witsen, yes, that's correct.

Q. They are both Jehovah's Witnesses?
A. That's right.

Q. And their office is located at Bethel - their legal office?
A. Yes, their legal office, yes.

Q. Do they both reside at Bethel?
A. They both reside there, yes.

Q. Is it the case, Mr O'Brien, that the other branches of

the Jehovah's Witnesses, however described, rely on the legal branch to keep you abreast on legal obligations?
A. Sorry, when you say "the legal branch", you mean the legal department within the branch?

Q. Yes, I'm sorry, yes.
A. Yes. So if a branch has a legal department - not all do, because not all have solicitors, sometimes it might be an adjunct to the service department - but if there is a legal department within the branch, then we do rely on legal advice. But the legal department itself may outsource advice, which has happened on a number of issues that we've faced.

Q. Mr O'Brien, I just want to take you very briefly back to a matter that there has been considerable questions about in the Commission, and that is the role of women in the church.
A. Okay.

Q. I want to just see if you can help me understand some of the spiritual and scriptural underpinnings of the role of the women - what women can do and what they can't, okay? Now, would you understand that 1 Timothy does provide guidance on that issue?
A. Yes, that's the scripture that was discussed yesterday regarding the role of women in the congregation, is it?

Q. I think it might have partly been discussed yesterday, yes. Are you familiar with that scripture?
A. I think you would have to remind me of the specific verse. It's a --

Q. Perhaps if I could read it to you. It is not very long.
A. No, that's okay, if you just give me the reference, I can --

THE CHAIR: Q. It is 1 Timothy 2:11-12.

MS McGLINCHEY: Q. Yes. If you have it in front of you, but for the benefit of everybody else, I will just read it, okay.
A. Sure.

Q.
Let a woman learn in silence with full

submissiveness. I do not permit a woman to teach or to exercise authority over a man, but she is to remain silent. For Adam was formed first, then Eve. Also, Adam was not deceived, but the woman was thoroughly deceived and became a transgressor. However, she will be kept safe through childbearing, provided she continues in faith and love and holiness along with soundness of mind.

Is that a correct reading, do you agree?
A. Yes, that's what the scripture says.

Q. I think that it's fairly clear that there is a very firm direction that a woman can't teach; correct?
A. In the congregation, yes.

Q. And a woman is not permitted to have authority over a man?
A. A baptised member of the congregation, yes.

Q. And is that one of the reasons why women can't be elders?
A. One of the reasons is in that same chapter, if you look at chapter 3, it lists the qualifications of an elder, and it says, for example, in verse 1:

If a man is reaching out ...

Verse 2, he needs to be a husband; verse 4:

... a man presiding over his own household ...

Q. I understand that and we did go through those yesterday?
A. Yes.

Q. But can we just deal with 1 Timothy 2, because I want to ask you - well, firstly, do you agree that that is authority for why a woman can't be an elder?
A. Because of the fact that that's what the scriptures designate. We don't feel we have authority beyond scriptures on that point.

Q. And this scripture says that a woman cannot exercise

authority over a man. Part of the role of an elder is to take such positions, such as a judicial member?
A. That's true.

Q. Which would lead her into a situation where she may be required to have authority over a man?
A. If she was an elder, you mean?

Q. And that's prohibited.
A. Yes.

Q. Do you agree that, if you read on in Timothy, it sets out some of the reasons for those directions, and that, firstly, it was because Adam was formed first and then Eve - do you agree?
A. So he - yes.

Q. And then it goes on to say:

Also, Adam was not deceived, but the woman was thoroughly deceived and became a transgressor.

What do you understand that to mean?
A. Well, you would need to go back to the Genesis account, Genesis chapter 3 and the garden of Eden --

Q. Well, can I just ask you, what do you think that that sentence means?
A. I believe it means what - as I said, the Genesis account of creation and the fall into sin, where Eve was deceived by the serpent, Satan, into thinking she could eat the fruit and not suffer any consequences. So she was deceived. The man was more culpable, because when she showed him the fruit and said what she had eaten, he wasn't deceived; he just simply was disobedient. And that's why the sin in the Bible is charged to Adam, not to Eve.

Q. Because women are more able to be deceived, therefore, less culpable?
A. No, I don't think women are more able to be deceived.

Q. Do you agree that a reading of that sentence may suggest that men have natural attributes that better equip them to be in positions of responsibility?
A. No, all I read into it is that this is how God has ordained his arrangements, and I accept that.

Q. Do you agree that it does suggest that women do not have, perhaps, the intelligence to exercise responsibility --
A. No.

Q. -- because Eve was thoroughly deceived and Adam wasn't?
A. I think mankind - referring to the masculine gender - have been deceived equally as have women. Just Eve, in this particular instance that it is looking at, Was the one who was deceived by Satan, not Adam. He was more culpable because he was willfully disobedient. She was deceived. At least that's something to her credit, that --

Q. In this context - that is, Timothy - the scripture is setting out why a woman can't have authority over a man?
A. No, I think that the following verses, in the qualifications for a person to be an elder, nominates and specifies that it needs to be a man. Not because a woman is deficient in her ability or intelligence or - we don't believe that for a minute.

Q. Do you believe that a woman has natural abilities equal to that of a man?
A. In many respects she has qualities and abilities that a man doesn't have.

Q. And do you believe that women have equal intelligence to men?
A. Certainly, because that's --

Q. And that's generally held to be true in the Jehovah's Witnesses?
A. Definitely, yes.

Q. Do you believe that women have equal qualities in terms of other skills or attributes, such as wisdom and the ability to look at evidence fairly?
A. If I could just labour the point for a moment to answer that --

Q. I would like you to answer my question.
A. Yes, I will answer it, but the formation of the Christian congregation in the beginning by Jesus Christ - he selected the 12 apostles. He didn't set them up to be a governing body or a body of elders or a congregation. He

sent them out to preach by twos. Later on, he sent 70 others to preach. The entire book of Acts shows that the purpose of the Christian congregation is to preach the good news of the kingdom. Men and women do that equally as well, many women far more effective, as preachers, than are men. So to assume that we would feel, as Jehovah's Witnesses, that women are in some way deficient to men - we don't think that for a moment. We love and respect the women who are taking this good news of the kingdom into the field.

Q. Mr O'Brien, it's not just a coincidence that women are not in positions of responsibility in Jehovah's Witnesses, is it?
A. Not a coincidence?

Q. Not just a coincidence?
A. No, it is scripturally based. Is that what you mean? I'm sorry.

Q. Yes, yes, I do. So are you saying to me that, despite the fact that the church believes that women are capable, women are intelligent, women have wisdom and judgment, they will still never be elders in your church?
A. As long as that's God's word, that's how we would have to view it, yes.

THE CHAIR: Q. Mr O'Brien, I discussed this yesterday with other people, but if you look at verses 11 and 12 --
A. Of chapter?

Q. Chapter 2?
A. Yes.

Q.

Let a woman learn in silence with full submissiveness.

Does the church apply that?
A. Sorry, I missed the question, your Honour.

Q. The words are:

Let a woman learn in silence with full submissiveness.

Does the church apply that injunction today?

A. Yes, as far as - if you go back, in context, in verse 8 and 9 it's talking there about men carrying on prayer in the congregation, so it's not just in her home. So in the congregation setting, the women are not assigned to teach.

Q. Well, no, more than that: are they to learn in silence?
A. We understand that women are free to comment at our meetings, but under the direction and oversight of a man, one of the elders who is a teacher. He can invite a woman to comment on a point, but he is the one doing the teaching.

Q. So you don't apply that in those terms?
A. Not literally, that she can't speak in the congregation meeting.

Q. It goes on:

I do not permit a woman to teach ...

Do you apply that?
A. Yes, so the woman doesn't teach in the congregation. That's the context of the chapter here.

Q. And then:

... or to exercise authority over a man, but she is to remain silent.

A. Yes.

Q. Do you apply that?
A. Yes, in the context of the congregation; again, not in her home or in the general preaching work, which is not a congregation teaching. And that is why --

Q. So women do teach, they just can't teach in the congregation; is that the idea?
A. That's the point, yes.

THE CHAIR: Very well.

MS McGLINCHEY: I don't have anything further, your Honour. Thank you.

THE CHAIR: Do either of you have any questions?

MR TOKLEY: No, your Honour, thank you.

THE CHAIR: Very well. Mr Stewart?

MR STEWART: Your Honour, there is a matter that I, in fairness, must put to Mr O'Brien.

<EXAMINATION BY MR STEWART:

MR STEWART: Q. Mr O'Brien, you have given evidence that you gave instructions to counsel on the point of Mr Jackson not being able to assist and his activities being in relation to translations. I, as a matter of fairness, must put to you that those instructions you gave were false, were they not?
A. No, I don't believe so. Mr Jackson does oversee the translation work, but as part of the writing committee member, which he is one of the Governing Body members on that committee. So --

Q. And I suggest to you, or I put to you, that when you gave those instructions, you knew them to be false?
A. No. I disagree.

Q. And by giving those instructions, you sought to mislead the Royal Commission, to protect Mr Jackson from any potential summons to appear?
A. No, I disagree. I think the reason we asked consideration to be shown to Mr Jackson was the grave situation of his father - the very reason he is in Australia.

Q. Yes, and in relation to that, in view of what I have put to you, perhaps you can answer this: how are we to know if what you say about Mr Jackson's compassionate circumstances is, in fact, true?
A. We could provide an affidavit, if you wish; we could provide doctors' reports on his father - whatever the Royal Commission would like. I'm sure we can arrange for that.

THE CHAIR: Q. How long has he been in Australia?
A. I am not sure, your Honour, but I think maybe a week or two - a couple of weeks, perhaps.

MR STEWART: Q. He has been here since before 14 July,

hasn't he?
A. I don't know, specifically. I could find out, but I don't know exactly when he arrived. But it is only within the last couple of weeks.

MR STEWART: I have nothing further, your Honour.

THE CHAIR: Yes, thank you, Mr O'Brien. That concludes your evidence. You are excused.

THE WITNESS: Thank you very much.

<THE WITNESS WITHDREW

MR STEWART: Your Honour, I do have some documents to tender. They are arranged individually, so I will tender them one by one, if I may.

THE CHAIR: How many documents are there?

MR STEWART: Five, your Honour. We're going to give them to you in a little bundle, your Honour, all five of them.

THE CHAIR: Do I mark them together or do I mark them separately.

MR STEWART: Separately, if you would, your Honour.

THE CHAIR: Just identify them, and I will give them a number.

MR STEWART: Yes.

THE CHAIR: You can step down, Mr O'Brien.

THE WITNESS: Thank you.

MR STEWART: The first document is an email of 16 July from Milton Bray to the Royal Commission setting out Jehovah's Witness membership statistics.

EXHIBIT #29-029 EMAIL OF 16/07/2015 FROM MILTON BRAY TO THE ROYAL COMMISSION SETTING OUT JEHOVAH'S WITNESS MEMBERSHIP STATISTICS

MR STEWART: The second is a revised version of the notes of the investigating committee. Your Honour, in fact,

perhaps the best way of dealing with this is not as a new tender, but it is to replace the existing --

THE CHAIR: I will mark it separately.

MR STEWART: As your Honour pleases. So it is the notes of the investigating committee taken by Mr Ali. I am sorry, your Honour, it is the typed transcription of the notes.

THE CHAIR: I can see that.

EXHIBIT #20-030 REVISED TRANSCRIPTION OF NOTES OF THE INVESTIGATING COMMITTEE TAKEN BY MR ALI

MR STEWART: The third is the results of the Watchtower case file analysis summary prepared by Royal Commission staff. If I can explain - because this has passed between my learned friends for the Watchtower Bible & Tract Society and those assisting me over the last several weeks - we have removed from the spreadsheet all the names of people and also all the congregations. So what is left is the raw data, in case there is any debate about the summary analysis in submissions. I tender that.

EXHIBIT #29-031 RESULTS OF THE WATCHTOWER CASE FILE ANALYSIS SUMMARY PREPARED BY ROYAL COMMISSION STAFF, WITH NAMES OF PEOPLE AND CONGREGATIONS DELETED

MR STEWART: Then there are extracts from "Organised to Accomplish Our Ministry", 1983.

EXHIBIT #29-032 EXTRACTS FROM "ORGANISED TO ACCOMPLISH OUR MINISTRY", 1983

MR STEWART: And extracts from "Pay Attention to Yourselves and to All the Flock", 1991.

EXHIBIT #29-033 EXTRACTS FROM "PAY ATTENTION TO YOURSELVES AND TO ALL THE FLOCK", 1991

MR STEWART: That is all I have. I do have a standard order for submissions, your Honour.

THE CHAIR: Before I come to that, Mr Tokley, at the moment I am troubled by what I now understand as to the role of Mr Jackson in the organisation. It does seem that,

having regard to the issues we have canvassed, he would be able to help. Do you want to respond to that?

MR TOKLEY: Your Honour, I can respond. I can certainly try to take further instructions. For reasons which are obvious, I think, your Honour is entitled to whatever assistance should be provided to your Honour. My understanding remains as I was instructed, that in relation to these legal matters, Mr Jackson would be of no assistance.

THE CHAIR: It's not legal matters. The discussion has moved a little from the history to the future.

MR TOKLEY: Yes.

THE CHAIR: At the moment, I can presently understand the injunction that is felt in relation to elders, but a process, a deliberative process for the church - it's possible to imagine it being one which was not entirely conducted by elders. But, secondly, a process which the church engages in because of its adherence to the Bible, which allows a person who those who are deciding the matter have no doubt has committed the abuse, to, nevertheless, remain in the community, raises other issues as well.

MR TOKLEY: Yes, your Honour, I understand.

THE CHAIR: They won't have eluded you or Mr Coyne, as they were raised.

MR TOKLEY: No, your Honour.

THE CHAIR: I mean, if you put yourself in a position to care for other people and you fail, then consequences flow.

Now, these are issues which clearly have emerged from our discussion, and we would like as much help as we can. As he is in the country, it would seem logical that we ask him to come and help us.

MR TOKLEY: I understand your Honour's point and I am not seeking to not address your Honour's point.

THE CHAIR: No, I understand that. Having said that, I appreciate the circumstances of his father, but we all have to face those difficulties from time to time in our

lives.

MR TOKLEY: Yes, your Honour.

THE CHAIR: What I'm going to say is I would like you to take up the matter with Mr Stewart and we will make arrangements some time next week to hear evidence from Mr Jackson, unless Mr Stewart comes to me and says that that can't be done.

MR TOKLEY: I understand, your Honour.

THE CHAIR: Secondly, beyond that, Mr Stewart has - I haven't seen it - a standard form of directions for submissions. Is that right?

MR STEWART: Yes, your Honour.

THE CHAIR: Has that been agreed between everyone?

MR STEWART: I'm not sure that it has been agreed. I did canvass it with some, but we have four weeks for submissions from our side and four weeks for other interested parties, so it is fairly --

THE CHAIR: Fairly standard. Unless anyone says otherwise, I will make those directions.

But can I say this - I suppose, Mr Tokley, to you again, I'm sorry --

MR TOKLEY: Not at all, your Honour.

THE CHAIR: It will be quite apparent now that some of the documentation of your clients just doesn't fit either the practice or what they accept should be the position. What we would like from you is a draft of the revisions which you proffer as appropriate, having regard to the discussion that has taken place.

MR TOKLEY: I understand why your Honour would say that. I'm again not seeking to avoid assisting the Commission or to assist your Honour. I think that the process that may be contemplated, though, in light of what has fallen during the last two weeks, is for there to be a review of the procedures, but also, at the same time, for those procedures to be considered by professional persons, such

as, for example, a psychiatrist or psychologist or a professionally trained counsellor, to ensure that any proposed revision would not result in further trauma being caused.

THE CHAIR: That may be a course that obviously has attraction.

MR TOKLEY: Yes, your Honour.

THE CHAIR: But the starting point is to identify where you or your client accepts the problems are - and some of those are blatantly obvious from the words, not according to the practice, and then, moving on from there, what steps your client might take to bring its processes and its documentation up to an appropriate position.

MR TOKLEY: Yes, your Honour.

THE CHAIR: That may include consultation with professional people, which is what has happened in other organisations we have looked at. For example, the YMCA have conducted a complete review with the help of professional people.

MR TOKLEY: Yes, your Honour.

THE CHAIR: We would be looking for you to proffer to us what your client accepts would be the appropriate course to take, and then we can have a look at it.

MR TOKLEY: Yes, your Honour.

THE CHAIR: If we don't agree, we will say so. If we think it should go further, we will say that as well. But the starting point is to understand what your client accepts should happen.

MR TOKLEY: Yes, your Honour, understood. I anticipate that part of our submissions will be devoted to the matters your Honour has raised with me, and it will probably set out the steps that will be involved as well in dealing with that aspect of the matter.

THE CHAIR: What we will then do - we live for another two and a half years: we will come back to you and we will expect to be told what has happened.

MR TOKLEY: I don't know about that, your Honour.

THE CHAIR: We will do that. There is no doubt we will do that.

MR TOKLEY: I suppose what I was saying, your Honour, is that I wouldn't have thought that such a process would take two and a half years.

THE CHAIR: I don't know. I hope it doesn't.

MR TOKLEY: One hopes so, your Honour.

THE CHAIR: But we will come back to you within the two and a half years, as we're doing with other organisations, to ask your client: What have you done? And we will expect that process to occur in public. All right?

MR TOKLEY: Yes, thank you, your Honour. Just before my learned friend rises, I can assure your Honour that there was no intention, obviously, on my part to mislead your Honour in any way.

THE CHAIR: We accept that.

MR TOKLEY: Thank you, your Honour. The other aspect of it is that, if I may, it may be necessary for my learned friend Mr Stewart and I to perhaps approach your Honour in relation to Mr Jackson's medical condition, simply because of the privacy of the matter, and to inform your Honour --

THE CHAIR: It is the medical condition of his father.

MR TOKLEY: Yes, your Honour, I beg your pardon.

THE CHAIR: That is as I understand it.

MR TOKLEY: Yes, it is.

THE CHAIR: At the moment that's all I know, and that's not enough for me, now, given what I know about his role in the organisation --

MR TOKLEY: Understood, your Honour.

THE CHAIR: -- to say that we shouldn't have the benefit

of his understanding.

MR TOKLEY: No. I think I will endeavour to obtain a consultant specialist report on the matter.

THE CHAIR: That won't actually necessarily solve the problem.

MR TOKLEY: I understand, your Honour.

THE CHAIR: It is regrettable and I appreciate his position, but we all have to face these issues as well as our other responsibilities, and this Royal Commission, of course, carries great responsibilities for many, many people, some of whom are members of his church.

MR TOKLEY: Yes, it is understood, your Honour. Thank you, your Honour.

MR STEWART: If I might hand up the direction with regard to submissions, it is self-explanatory, I believe.

If there is to be any appreciable delay on the matters your Honour has been discussing with my learned friend, then he might approach your Honour with regard to an amendment of the direction.

THE CHAIR: Yes. Well, we will face that when we come to it, if we need to. Otherwise, I have made the directions in those terms.

Mr Tokley, feel free to approach Mr Stewart, if that's necessary.

MR TOKLEY: Thank you, your Honour.

THE CHAIR: The expectation we have is that at an appropriate time next week there will be maybe one or two hours set aside.

MR TOKLEY: Understood, your Honour. The only other thing I think is Dr Applewhite's separate report. Does your Honour require that to be incorporated into the orders? Your Honour mentioned two weeks.

THE CHAIR: Two weeks is what I said. I think that's plain.

MR TOKLEY: Yes, your Honour.

THE CHAIR: Are we going to get one?

MR TOKLEY: Yes, your Honour.

THE CHAIR: All right, then we look forward to it.

MR TOKLEY: Your Honour, can it be two weeks from today, simply because --

THE CHAIR: You are asking for an extension?

MR TOKLEY: If I may, please, your Honour.

THE CHAIR: She can have two weeks from today.

MR TOKLEY: Thank you, your Honour.

THE CHAIR: But no more.

We thank everyone for your assistance. It may be necessary for us to resume again next week, but people will be notified in due course. Otherwise, we will adjourn.

AT 4.10PM THE COMMISSION WAS ADJOURNED ACCORDINGLY

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