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THE CHAIR: Yes, Mr Myers.

MR MYERS: Thank you very much, sir. As my learned junior mentioned, I appear with him on behalf of Cardinal Pell who has been summoned to give evidence before this Commission.

The application, of which the Commission is aware as a result of two letters, one sent last night and one provided this morning, is that Cardinal Pell be permitted to provide his evidence by video-link.

The grounds of the application are based upon the health of Cardinal Pell.

THE CHAIR: Can I just ask that we be careful to make sure that Mr Myers has a proper opportunity to put his application, so we can all consider it and deal with it.

Yes, Mr Myers.

MR MYERS: Thank you, sir.

The Commission will be conscious that Cardinal Pell himself said that he wished to come to Australia to give his evidence in person.

It's not reasonably possible for him to do so because of health difficulties that have been exacerbated, in his case, in recent times.

1 The information which has been provided to the
2 Commission concerning --

3
4 THE CHAIR: Mr Myers, I think we need evidence. Are you
5 proposing to tender material?

6
7 MR MYERS: If the Commission pleases, I'm not proposing
8 to waive confidentiality in relation to the personal health
9 records of Cardinal Pell.

10
11 THE CHAIR: I can make orders to protect their
12 confidentiality.

13
14 MR MYERS: In that case, if the Commission is disposed to
15 do so, then I tender the two letters to which I've
16 referred, one dated 10 December 2015, and the other dated
17 11 December 2015, together with the exhibited medical
18 records.

19
20 THE CHAIR: I don't presently have a copy of the letter of
21 10 December; does anyone have a copy of that?

22
23 MR MYERS: I beg your pardon, yes. Counsel Assisting, I
24 see, is ready with assistance.

25
26 THE CHAIR: That's all right. What I'll do is, I'll mark
27 the letter of 10 December as exhibit 28A.

28
29 **EXHIBIT #28A LETTER OF 10/12/2015**

30
31 THE CHAIR: I think the letter of 11 December comes with
32 the medical reports; is that right?

33
34 MR MYERS: Yes.

35
36 THE CHAIR: I'll mark the letter of the 11th and its
37 accompanying medical reports as exhibit 28B, and I'll order
38 that neither letter nor the annexures be published.

39
40 **EXHIBIT #28B LETTER OF 11/12/2015 AND ACCOMPANYING MEDICAL**
41 **REPORTS**

42
43 MR MYERS: I'm indebted to the tribunal for that.

44
45 THE CHAIR: Let me say, however, I think it will be
46 appropriate for me to explain, in due course in a general
47 sense, the character of the correspondence.

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MR MYERS: We accept that, as long as - and I'm sure the Commission appreciates - as long as intentionally private things in relation to Cardinal Pell are not mentioned.

THE CHAIR: I understand that

MR MYERS: Cardinal Pell was booked on an airplane to come to Australia, arriving on Sunday morning, and it might be as useful if I tender a document which consists of his confirmed travel arrangements. We have copies of that as well. There's no confidentiality about this document, sir. I'm sorry, we seem to be short of copies.

THE CHAIR: As long as I've got one, that'll do. We'll mark it exhibit 28C.

EXHIBIT #28C TRAVEL DOCUMENTS OF CARDINAL PELL

MR MYERS: The giving of evidence by video is very common. Indeed, I can say from my own personal experience of more than 30 years, the courts have accepted video evidence in important matters, as have many other tribunals.

THE CHAIR: That's true, Mr Myers, but it's not always satisfactory, is it?

MR MYERS: Some say it's not as satisfactory as having someone in person, but that matter is just one of the matters to be taken into account in the balance. The fact of it is that, if I may say so for very slight reasons, for those who have to travel a long distance, the use of video evidence is very common.

THE CHAIR: I understand that, but I think our experience last time was some technical problems at the Roman end, if I can call it that, and I think you're aware of what they were.

MR MYERS: I'm not exactly aware, sir, but I have been told of the technical difficulties.

THE CHAIR: But secondly, can I just say, as you know, we're looking at two case studies here, and there are a very significant number of documents, not all of which have necessarily been captured to date that may be relevant to the Cardinal Pell's evidence, you understand that too?

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MR MYERS: I do. But in the end, sir, they're all mechanical issues. If I can put them into that category. My instructing solicitor is proposing to go to Rome to ensure that the best available video facilities can be organised there, so that there be no repetition of the difficulties that occurred last time.

As to the question of the documents that may be needed to be put to the witness, that's a matter which could be resolved by discussion between Counsel Assisting the Commission and my instructing solicitors, we feel confident.

If those documents are already on an electronic system, they can be made available in Rome instantaneously. If they're not on an electronic system, then someone on behalf of the Commission would need to have a copy of the documents available in Rome.

Again, if I may say this to the Commission, this is very commonly done and --

THE CHAIR: It's normally done with a little more time to prepare than we have, Mr Myers, but I understand what you say.

MR MYERS: The medical evidence, which I'll refer to --

THE CHAIR: Look, can I just say, I've read that and, without - so that you know, I don't have to get into any difficulties, the essence of it, as I understand it, is the opinion of a doctor in Rome.

MR MYERS: Yes, it is.

THE CHAIR: Who speaks to his opinion as to the Cardinal's present condition.

MR MYERS: Yes, he does. There's a complete set of tests that have been --

THE CHAIR: Some of those are in Italian, I can't understand all of them, but nevertheless, I understand the general nature of them and you needn't go into them.

MR MYERS: There's only one figure that jumped out of the

1 page to me, and that's a figure concerning blood pressure,
2 but maybe there are other issues as well.
3

4 That's the basis of the application. Cardinal Pell
5 deeply regrets this and has been preparing himself for this
6 journey for some time, but the circumstances in which he
7 finds himself are the circumstances that exist now, and he
8 doesn't wish to delay the hearing of his evidence before
9 the Commission, he wishes it to be received properly in the
10 ordinary course that's been organised by the Commission,
11 and our suggestion would be that, if it can be so arranged,
12 that that evidence be received on the 16th as it was going
13 to be received if he were here in person.
14

15 They're the grounds of the application.
16

17 THE CHAIR: Thank you. Does anyone else have anything to
18 say about the application?
19

20 MR VENVILLE: Your Honour, I wish to make a statement
21 before this Royal Commission.
22

23 THE CHAIR: Sorry, who are you?
24

25 MR VENVILLE: My name is Brian Venville.
26

27 THE CHAIR: But you don't have leave to appear, do you?
28

29 MR VENVILLE: Not at the moment but I would be wishing in
30 the R v Western case in the sentencing by Judge Stock.
31 Before that, Justice Betty King empanelling the jury --
32

33 THE CHAIR: I'm sorry, Mr Venville but --
34

35 MR VENVILLE: For them to decide, is the Commission going
36 to ask for doctors to examine Cardinal Pell, where you've
37 only taken one doctor in Rome's opinion --
38

39 THE CHAIR: Mr Venville, I'm sorry, you don't have leave,
40 and I would invite anyone who does have leave --
41

42 MR VENVILLE: Sorry, I will apply for it now. I apologise
43 for my outbursts, Your Honour, but there is a precedent --
44

45 THE CHAIR: Mr Venville, I wonder if you could just pardon
46 me for a moment. Is there anyone who has leave who wishes
47 to say anything in relation to Mr Meyer's application?

1

2 MR D. O'BRIEN: Obviously on behalf of the clients who are
3 represented, Mr Sleeman and Mr O'Donnell and Mr [BDP] in
4 the Ballarat matter, we're in the Commission's hands.

5 Obviously the application has been made, but there may also
6 need to be some accommodation in relation to the
7 facilitation of documents, et cetera, that is considered by
8 other parties, and we'll obviously have to address that,
9 but we would ask obviously for some understanding on behalf
10 of the representatives for Cardinal Pell, if arrangements
11 need to be made, about which I have no present instructions
12 because we've just received the information as it's been
13 delivered to Your Honours. That's all I have to say.

14

15 THE CHAIR: Anyone else? Ms Furness, or Mr Stewart, do
16 you wish to say anything?

17

18 DR HANSCOMBE: As the Commission knows, I do appear for a
19 witness whose evidence is in conflict with that of Cardinal
20 Pell. My instructions are that my client would prefer
21 Cardinal Pell to attend. However, the Commission has
22 material, I don't have the material, I don't seek to say
23 anything more than that. It's the Commission's
24 investigation and it's a matter for the Commission. If the
25 Commission please.

26

27 MS FURNESS: Your Honours, the only matter I wish to raise
28 for Your Honour's consideration of the application, is
29 that, there have been two case studies before this Royal
30 Commission in relation to which Cardinal Pell's evidence is
31 desired: the first in relation to Ballarat began in May
32 this year and has continued on to this hearing, and the
33 Melbourne hearing took the first two weeks of this month.
34 So, there is a deal of evidence and a complexity of issues
35 in relation to those case studies. That's all I have to
36 say, Your Honour.

37

38 THE CHAIR: Very well.

39

40 By letter dated 26 May 2015, Cardinal Pell wrote to me
41 and indicated, and I quote:

42

43 *I would like to make it absolutely clear*
44 *that I am willing, as I always have been,*
45 *to give evidence should the Commission*
46 *request this from me, be it by means of a*
47 *statement, by video-link, or by attendance*

1 *in person.*

2
3 I responded to his letter by asking that he attend in
4 person.

5
6 Last night, the solicitor for the Royal Commission
7 received an email from the solicitors for Cardinal Pell.
8 The purpose identified in the email was to advise that the
9 Cardinal is, again I quote:

10
11 *... currently affected by serious health*
12 *conditions that, in the opinion of his*
13 *treating specialists, make his travel to*
14 *Australia unsafe, and to seek the consent*
15 *of the Commissioners to have the Cardinal*
16 *give his evidence by way of video-link from*
17 *Rome.*

18
19 The letter was said to be confidential and it sought a
20 private meeting between Senior Counsel for the Cardinal,
21 Mr Myers QC, and myself. It is not appropriate that the
22 essential requests contained in the letter be confidential
23 and it was not appropriate for me to meet with Mr Myers on
24 a confidential basis. I have not done so.

25
26 This morning I requested Senior Counsel assisting the
27 Commission, Ms Furness SC, to meet with Mr Myers. She did
28 this and was given various medical reports, some in
29 Italian, relating to the Cardinal. The essence of those
30 reports is expressed by a doctor in Rome who said in his
31 report, and dated 7 December 2015:

32
33 *In my opinion at present it is*
34 *contraindicated a long plane journey.*

35
36 The Commissioners understand the nature of the
37 Cardinal's health issues and would not wish to take any
38 step which might exacerbate them.

39
40 However, given the complexity of the issues involved,
41 and the fact that there are two case studies presently
42 before the Commission covering an extensive period of time,
43 coupled with the technical difficulties in Rome of the
44 previous video evidence when the Cardinal was in Rome, it
45 is preferable that his evidence be given in person in
46 Australia.

47

1 The Commission had already determined to sit in
2 Ballarat to take further evidence in relation to the
3 Ballarat matter, that having been listed for February
4 next year.

5
6 In the hope that the Cardinal's health will
 improve,
7 rather than take video evidence this week, we will
 defer
8 his evidence to the Ballarat sitting in both the
 Ballarat
9 and Melbourne case studies. If the Cardinal's health
 has
10 not sufficiently improved by then to enable him to travel,
11 we will further consider the position, which may include
12 further delaying his evidence to a date when he can travel
13 safely to Australia.

14
15 Thank you, Mr Myers.