

UPDATE 28

Royal Commission John Ellis Case Sydney



27 March 2014

The Royal Commission's hearing into John Ellis' *Towards Healing* case and his litigation against the Catholic Archdiocese of Sydney continued in Sydney this week.

On Monday, Cardinal Pell gave a full day of evidence which started with a review of the minutes of meetings of church leaders which lead to the development and establishment of *Towards Healing* in 1996. He also gave evidence about his decision, as Archbishop of Melbourne, to establish the Melbourne Response.

Cardinal Pell gave evidence that he thought Australia was ahead of many other places around the world in the development of protocols to address sexual abuse within the Church.

Cardinal Pell said that in the early 90s the view of some people in the Vatican was that anyone who made an allegation against a Catholic priest was 'an enemy of the Church'. Cardinal Pell said he didn't believe this was the predominant view in Australia.

During Cardinal Pell's evidence, he spoke about his involvement in Mr Ellis' *Towards Healing* process and said that he had no involvement in the determination of how much Mr Ellis would be paid in reparation.

He also said that there had been a number of mistakes made during Mr Ellis' *Towards Healing* process including delays, failure in following proper process, doubts about whether the abuse occurred and the "grotesque" reparation offer to Mr Ellis of initially \$25,000 and then \$30,000.

Cardinal Pell also gave evidence about the way in which the Archdiocese had approached the case Mr Ellis had brought against Cardinal Pell and the Archdiocese Trustees in 2004.

Cardinal Pell said he had given the instruction to defend the claim but was not involved in the day-to-day progress of the case.

He said that if he had been aware Mr Ellis was willing to settle the matter for \$100,000 he would never have pursued the legal action.

Cardinal Pell reiterated his belief that the Catholic Church should be able to be sued.

"I'm proposing that we never want to repeat the amount of time and tears that went into this fight over trustees. I was suggesting we set up a corporation sole and that corporation sole would have perpetuity and would appoint and supervise people so that if - so that the successors, if, God forbid, there was anybody like Mr Ellis, would have somebody to sue.

Cardinal Pell continued to give evidence on Wednesday morning by saying he believed the Archdiocese always acted honestly in a legal sense during the Ellis litigation.

"I believe in a legal sense there was nothing done that was improper and any reservations I might have about particular stands of our lawyers, I would not want to suggest that they did anything improper. But

from my point of view, from a Christian point of view, leaving aside the legal dimension, I don't think we did deal fairly" with Mr Ellis.

Asked by Commissioner McClellan if the Church had dealt honestly with Mr Ellis, Cardinal Pell responded "Yes, I believe so".

Cardinal Pell said it was a mistake not to have entered into mediation at the start of the proceedings in September 2004 and also that the counter offer put by Mr Ellis of \$750,000 should have also been discussed rather than dismissed.

When asked if the Archdiocese should go back and look at past settlements with victims Cardinal Pell agreed.

Cardinal Pell concluded his evidence to the Commission on Thursday afternoon with a personal apology to Mr Ellis:

"...Speaking as the former Archbishop of Sydney and for myself personally, I want to say to Mr Ellis that we failed, in many ways inadvertently, in our moral and pastoral responsibilities to him. I want to acknowledge his suffering and the impact of this terrible affair on his life. As the then Archbishop, I have to take ultimate responsibility, and this I do. At the end of this gruelling appearance for both of us at this Royal Commission, I want publically to say sorry to him for the hurt caused him by the mistakes made and admitted by me and some of my archdiocesan personnel during the course of the *Towards Healing* process and subsequent litigation. These legal issues are complex and I stand by my comments that in litigation there are matters to defend and there are difficult legal issues still to be clarified for the future.

"Nonetheless, overall and in retrospect what happened was wrong. We should never have taken two years in *Towards Healing*. We should have tried to settle. We should have been proactive in highlighting the appropriate defendant. John Ellis has my deepest apology..."

The Cardinal committed to doing his best to make himself available and return from Rome should the Royal Commission require his assistance.

Commissioner McClellan advised that the Commission's report on *Towards Healing* would not be available until the Melbourne Response has been considered later this year.

On Tuesday this week, Monsignor Usher, the current Chancellor of the Archdiocese of Sydney concluded his evidence to the Commission by saying that the work of the Commission over the past six months has had an impact on Church leaders.

"In fact, the attitude of Cardinal Pell, the Archbishop of Sydney has changed considerably. I don't know whether it's because of this Royal Commission or because of extra learning..."

Following Monsignor Usher, Mr Danny Casey, Business Manager for the Archdiocese of Sydney, gave evidence.

Mr Casey took the Commissioners through a detailed analysis of the Archdiocese's financial arrangements over many years including the amount of money that has been paid to victims.

Mr Casey gave evidence that prior to 2001, 17 claims totaling \$186,000 had been paid. Between 2001 and the end of 2007, 35 claims had been paid totaling \$1.28 million. From 2008 to the present \$5.55 million has been paid relating to 47 claims.

He also gave details of the Archdiocese's overall financial position indicating that since 2001 its net asset base had increase by 86 per cent from \$103 million to \$192 million in 2014.

Mr Casey said it had been a very bad decision to proceed and not seek to settle the Ellis case at \$100,000. The hearing concluded in Sydney today.

For more information on the Truth Justice and Healing Council go to: www.tjhcouncil.org.au

For information on the Royal Commission go to: <http://www.childabuseroyalcommission.gov.au/>

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