

CARDINAL PELL HEARING

March 5 – March 29, 2018

MARCH 5: The "committal" hearing, held to determine whether there is sufficient evidence to commit the case to trial, began in Melbourne Magistrates Court.

During the first day's proceedings, Cardinal Pell's attorney Robert Richter:

- charged that the police did not investigate the case properly due to their "presumption of guilt" against Pell;
- called for the defense to have access to a document outlining how police investigate complaints against prominent people, saying police handling of the Pell investigation went against that normal protocol because they presumed him to be guilty;
- said police should have better investigated 21 witness statements that he said went toward clearing Pell, and called on them to provide the court with any exculpatory material they had that depicted Pell favorably;
- charged that prosecutor Mark Gibson's attempt to have parts of the brief of evidence against Pell withdrawn was because those documents were exculpatory. "These documents are part of the brief," Richter said. "I know it doesn't suit the prosecution because they are exculpatory of the cardinal, but they are still there."

Gibson amended the dates of the alleged offenses on several charges, and formally withdrew one charge because the complainant had died.

Following this opening, **the hearing was closed to the media and the public for the next two weeks** during testimony from the complainants. Neither the names of the complainants nor the actual charges were made public.

MARCH 14: With the testimony of complainants completed, Magistrate Belinda Wallington allowed reporters into the courtroom to hear other testimony:

Bernard Barrett, a retired academic and researcher for Broken Rites, an advocacy group for victims of clergy abuse (he has worked for the group for 25 years):

- Richter asked Barrett if he and Broken Rites "make up representations...accusing the church of covering up sexual abuse?" Barrett denied they make things up, saying "we just state the facts."
- Richter suggested that Barrett and Broken Rites would have "considered it a considerable victory if you could pin something on Cardinal Pell." Barrett responded, "Not really."
- Richter accused Barrett of wanting "to big-note yourself with the police" by offering to go to the police with an alleged victim's complaint, rather than letting the alleged victim go himself. Barrett said he made the offer to assure the complaint got to the right office. The judge said it was irrelevant whether Barrett was trying to big-note himself.
- Noting that Barrett's 2015 statement to police did not contain Pell's name, Richter suggested that Barrett and Broken Rites later suggested Pell's name to the alleged victim. Barrett said it was the victim's mother who came to him with a separate abuse claim by her son, and only six months later claimed he had also been abused by Pell. According to Andrew Bolt, Barrett claimed the alleged victim had referred to a bishop and mentioned a name, "But I didn't make a big fuss about it." Richter asked why this wasn't in his notes. Barrett said his note-taking on abuse victims varied. "The police asked you to detail everything," Richter said. "This is what you have written down. This statement which does not contain details of the assault or the identity of Cardinal Pell."
- Richter accused Barrett of evading questions, and finally got Judge Wallington to instruct Barrett to answer the questions.

Father of an alleged victim who died of a heroin overdose:

- Said he had no idea his son was an alleged sexual abuse victim until police asked him for a statement a year after his son's death. "At no time did he ever tell me that, and we had quite a few discussions," he said. "I am very aware of that sort of thing ... I've always kept an eye on it and I never saw," and his son "never hinted, that something was going on."
- He said he had several discussions about why his son began experimenting with drugs. "He made the comment that he certainly liked doing it, he enjoyed doing it and it was nobody's fault that he was doing it."

MARCH 15:

Father of an alleged victim:

- Richter told the court that when the father gave a statement to police in 2015, he never mentioned Pell by name, talking only about notorious pedophile priest Gerald Ridsdale and "priests." The father replied that his son had not wanted to talk to him about allegations against Pell, and instead asked his brother to tell their father about it.
- Richter charged that the allegation involving Pell was "an invention of yours. ... You've just made that up after you've made your statement (to the police) right?" The man responded, "That is an insult. No." "It may be an insult, but it's true, is it not?" Richter asked. "Absolutely not," the father replied.
- Richter pressed the father on whether he had seen anything "untoward" at the location of the alleged abuse, during a water-skiing outing hosted by their local church. Anything "Improper. Sexual. Abusive," Richter asked. "No," the father replied.
- When Richter suggested that the man was not very close to his allegedly abused son, Judge Wallington said that was "inappropriate." The man replied, "We were a very close family ... that's totally disrespectful to say that to a father."

Father and brother of another alleged victim:

- The father and brother said they first heard about the alleged abuse in mid-2015, about a month before police questioned them about accusations against Pell.
- The father said he could not recall any occasion when his son had behaved oddly after being around priests.
- His younger son recalled driving home from a family party and hearing his brother, who was drunk, say, "Some f***ed up stuff happened to me."

After lunch, Wallington announced that **court would be adjourned until Monday** (Mar. 19) due to circumstances unrelated to the case (another Magistrate had died).

MARCH 19: The court heard testimony about alleged offenses committed by Pell at a swimming pool and a movie theater, both in Ballarat.

Swimming Pool:

- One of Pell's accusers had reported the alleged abuse at the swimming pool (1976-77) after watching television reports of other accusations against Pell.
- He had previously made sexual abuse allegations against another priest, but accused Pell in a later statement to Simon Acott of the law firm Waller Legal, which specializes in clerical sexual abuse compensation claims.
- He is alleged to have told Acott that "lots of stuff came back to me when I saw the TV special on George Pell."
- Ruth Shann, another of Pell's defense attorneys, suggested that Acott had raised the topic of allegations against Pell to the accuser. Acott replied that he didn't recall how the subject arose, but "My recollection is I didn't ask him about Pell, he brought that subject up."
- Shann asked Acott if he was aware that the principal of his law firm, Dr. Vivian Waller, has had "public stoushes" with Cardinal Pell, including making allegations about him in 2014 that were later proven to be impossible. Prosecutor Mark Gibson objected to the question, saying it was an attack on Waller's credibility.
- Two witnesses who regularly frequented the pool also testified. One said he would see Pell playing with children at the pool, clasping his hands together to give them a foot up before launching them into the water. He said he had never seen Pell doing anything "untoward." And a woman who often took her daughter to the pool said she never saw Pell acting inappropriately there.

Movie Theater:

- Another accuser had claimed that Pell sexually assaulted him in a cinema during a 1978 screening of "Close Encounters of the Third Kind."
- Richter asked cinema sales manager John Bourke if he or his staff were ever alerted to somebody being sexually assaulted during the screening of the film. Bourke replied that it would have been the role of the ushers to remain in the theater during screenings and "prevent trouble." "They would investigate it and take whatever action required and forward it to me later," he said. "But I can't ever recall seeing Father Pell attending the theatre."

Doctor's testimony: Another woman told the court she took one of Pell's accusers to a doctor's practice in the 1970s. But the doctor later said he didn't recall seeing the alleged victim or any patient at the time with injuries that suggested a sexual assault had occurred.

MARCH 20: The court was told that new allegations have been made against Pell. Testimony was given refuting allegations that Pell abused boys in the sacristy of St. Patrick's Cathedral in Melbourne.

New allegations:

- Fresh allegations, involving "multiple complainants," were said to have been made against Cardinal Pell. Like all previous allegations, their details and nature, and the identities of the accusers, were not made public. Richter told the court that a witness due to testify the following week had made a second statement to police.

St. Patrick's Cathedral: The court was told that any allegation of misconduct by Cardinal Pell in the sacristy of the cathedral could not possibly have happened.

- Father Charles Portelli, who assisted Pell during cathedral ceremonies, testified that Pell was never alone, before during or after Masses there. "There was never an opportunity for the archbishop to be alone in the priest's sacristy?" Richter asked. "No," Portelli replied.
- Maxwell Potter, who was sacristan at St. Patrick's when Pell was archbishop there, agreed with Richter that—given the boys' limited access to the sacristy and the fact that it was often locked—there was no way allegations that Pell abused boys there could be true.

MARCH 22: The court heard further testimony regarding the plausibility of sexual misconduct by Cardinal Pell inside St. Patrick's Cathedral.

- Rodney Dearing, a pastoral associate, testified, in response to a question from Pell attorney Ruth Shann, that the cardinal's robes were not able to be parted in the middle to reveal one's genitals or indeed parted to the side to

reveal one's genitals. Dearing explained that he was responsible for hanging up Pell's robes and therefore knew that they were too heavy to be easily lifted or moved while being worn to expose oneself.

- The court heard that two boys had said they "snuck back inside" the Cathedral as the procession exited the building. But Dearing agreed with Shann's suggestion that given the general awareness at the time (1996) "of allegations coming out about clergy and kids," he and "fellow adult chorists" would have been motivated to "keep a particularly close eye on the kids."

MARCH 23:

Dropped charges: Prosecutor Mark Gibson told the court that one accuser was "medically unfit to give evidence," so charges stemming from his evidence would be withdrawn. No other details were given.

Family testimony: The families of two accusers told the court they had only heard of the alleged offenses long after they had allegedly occurred, one of them at a pool in regional Victoria state and the other at a church. Those families had never previously seen or heard anything improper involving priests, the court heard.

- **A mother of one accuser** was asked by Richter what she recalled while watching her son swimming at the pool. The court heard that after swimming laps Pell would go to the free-play area of the pool, where the children would play games with him, including being thrown in the air by Pell.

"You never observed anything untoward happening," Richter said. "No, because we trusted priests," the woman answered. Richter suggested that she thought Pell was a "nice man" because he would stay around and play with her children and others. "I don't remember thinking that," she replied.

The woman had made a signed statement to police in 2015 after one of her son's friends from that time accused Pell of a sexual offense. The friend has since died, leading prosecutors to withdraw a charge against Pell before this

hearing began. Her son then also made allegations against Pell, which the woman said was the first she heard of them. She said when she tried to ask her son for details, all he said was, "yeah, it was bad." Richter suggested that comment was in reference to someone else who committed a sexual offense against her son. The woman responded that he had been talking about what happened to him at the pool.

- **The sister of another accuser** had told police her brother had identified Pell as the alleged offender. Richter said to her, "That's a story that was made up by you about naming George Pell." The accuser's sister replied, "I would say that's incorrect." Richter pressed her on why she had not asked her brother more questions about the incident between the time he brought it up and when she gave a statement to the police two or three years later.

MARCH 27: A packed courtroom heard an often heated, five hour exchange between Pell attorney Richter and award winning Australian Broadcasting Company (ABC) journalist Louise Milligan. Milligan hosted a July 2016 ABC report which aired allegations about Pell. She then authored a book, "Cardinal: The Rise and Fall of George Pell."

- Richter charged that in order "to try to win prizes with these things" (she won Walkley awards for both the documentary and the book) Milligan "distorted what went to the public and distorted it even more so in her book, so as to poison the public's mind."
- Richter accused Milligan of rushing her book into publication last May, instead of June, to beat the imminent charges against Pell, which would force her book to be pulled from the shelves in Victoria. "Your book was a prejudgment of guilt," he said. "This was your stab at getting an award for great investigative work. The most serious of the allegations...were not investigated by you."
- Richter said Milligan accepted accusers' accounts without corroboration because she "wanted to believe those accounts."
- The court had previously heard that one of the accusers gave police differing evidence from what he told Milligan, including the nature of the alleged sexual offense and the placement of the cardinal's hand during the alleged sexual assault. Milligan said she was aware of the discrepancies and had asked the accuser about them "because I was being a diligent journalist." She

testified that the accuser told her he was being truthful in his statements to her and that he was having trouble remembering the exact placement of the cardinal's hand because it happened so long ago.

- The court heard that one accuser gave evidence that he was "in meltdown" when he spoke to Milligan. "I told her I was in the middle of a meltdown," he testified in closed court sessions. Milligan said she couldn't recall him telling her that. Richter asked her whether this man had talked about wanting to kill Cardinal Pell because Pell had failed to prevent another priest from abusing his brother. Milligan said she remembered him wanting to kill Pell, but for abusing him, not failing to protect his brother. "He's not talking about the fact that he held Cardinal Pell responsible for covering up for pedophiles?" Richter asked. The court heard that Milligan did not include this in her television report after advice from ABC management and a queens counsel.
- Richter challenged Milligan on the credibility of her sources (the accusers), given that some had a history of psychiatric problems, criminal behavior and drug and alcohol abuse.
- Milligan agreed with Richter that none of the friends of two of the alleged victims she interviewed said they had witnessed anything wrong occurring when they were at the same swimming pool.
- Richter criticized Milligan for not putting dates on some of her notes taken during interviews with witnesses. He told her to "stop being an advocate" and just answer his questions.
- Several times, Milligan invoked a law regarding "journalist's privilege" regarding questions about her confidential sources. "I cannot reveal my sources, and I will not reveal my sources," she said.
- At one point Magistrate Wallington stepped in to stop the pair arguing in court, saying, "Respect and dignity come to mind." Richter replied, "Respect and dignity for the Cardinal's innocence."

MARCH 28: Richter accused police of running a "get Pell operation." He also called on Magistrate Belinda Wallington to disqualify herself from the case, saying she was biased against Pell.

Police investigation:

- Questioning Detective Superintendent Paul Sheridan, who worked with Operation Tethering, the task force established in March, 2013 to

investigate Pell, Richter asked if it was "specific to Cardinal Pell? "That's my understanding," Sheridan said.

- The court heard that when the task force was established, no allegations against Pell had been made to the police. Richter said it was "an operation launched without any victims," "an operation looking for a crime and a complainant." "It was a 'get Pell' operation, wasn't it?" "I guess you could term it the way you did, but I wouldn't term it that way," Sheridan said.
- Richter noted that "Despite the police looking for people and asking them to complain, it was basically a complete non-starter and was put on ice, as it were, for some time until there was an allegation, if you can call it that...made in March 2014." Sheridan said Operation Tethering was "an intel process to see if there were unreported serious crimes." But he agreed with Richter that no one came forward to police for one year, and when police approached someone who made a complaint in 2002 that was later dropped, that person did not want to talk to them.
- Richter told Sheridan that police had put Pell and his defense team at a "forensic disadvantage" by initially presenting them with allegations without any specifics as to alleged dates, times and locations. "That's problematic for someone whom is presumed innocent to get their minds around," Richter said. "I'd agree that's a challenge, yes," Sheridan replied.
- Questioning Det. Senior Constable David Rae, Richter said it was a breach of police procedures for Rae not to have taken notes during his initial telephone conversations with Pell accusers. "No, it's my practice," Rae replied. "Your practice then, is appalling," Richter said. Rae explained that he would often cut complainants short on the phone, making an appointment to interview them in person for a full and detailed statement. "Your practice is not to collect an evidentiary trail of what you assert," Richter said.
- Richter also criticized Rae for not reading psychiatric reports on some of the witnesses. "Well, what do you know of their psychiatric history as to whether they are people who make up things?" Richter asked. "Nothing," Rae replied. "You just took them at their word, yes?" Richter asked. "On face value I take them at their word," Rae agreed.

Magistrate Wallington:

- As Richter pressed Sheridan about police efforts to verify events alleged to have occurred at a movie theater in 1978, including when the film was

screened, Wallington intervened to say she was not convinced that Richter was right about the time frame of the film's screening. She challenged his line of questioning and also asked him to stop shouting.

- Richter then called on Wallington to disqualify herself. "I apply that your honor is unqualified to hear this matter on the basis of a biased view of the evidence," he said. Wallington responded, "Your application is refused."