

**THE CORNWALL
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE
SUR CORNWALL**

Public Hearing

Audience publique

Commissioner

The Honourable Justice /
L'honorable juge
G. Normand Glaude

Commissaire

VOLUME 133

Held at :

Hearings Room
709 Cotton Mill Street
Cornwall, Ontario
K6H 7K7

Wednesday, August 29, 2007

Tenue à:

Salle des audiences
709, rue de la Fabrique
Cornwall, Ontario
K6H 7K7

Mercredi, le 29 août 2007

ERRATA

**Volume 132
August 28, 2007**

Exhibits list and transcript

Page 20, line 25

C-632 Book of Documents (Volume I) for The Reverend
 Francis G. Morrisey

Should have read

P-632 Book of Documents for The Reverend
 Francis G. Morrisey

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Raija Pulkkinen	Commission Counsel
Mr. Mark Crane	Cornwall Police Service Board
Ms. Gina Saccoccio Brannan, Q.C.	Ontario Provincial Police
Mr. David Rose	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Ms. Judie Im	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Peter Wardle	Citizens for Community Renewal
Mr. Rob Talach Mr. Dallas Lee	Victims Group
Mr. David Bennett	The Men's Project
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene Larocque
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association

Table of Contents / Table des matières

	Page
List of Exhibits :	vi
Opening remarks by/Commentaires d'ouverture par Mr Peter Engelmann	1
FRANCIS G. MORRISEY, Resumed/Sous le même serment	2
Cross-Examination by/Contre-interrogatoire par Mr. Robert Talach	2
Cross-Examination by/Contre-interrogatoire par Mr. Peter Chisholm	137
Cross-Examination by/Contre-interrogatoire par Mr. David Sherriff-Scott	160
Remarks by/Commentaires par Mr. Peter Engelmann	186
Submissions by/Représentations par Mr. David Sherriff-Scott	189
Comments by/Commentaires par Mr. Peter Wardle	191
Comments by/Commentaires par Mr. Dallas Lee	191
Comments by/Commentaires par Mr. David Bennett	192
Comments by/Commentaires par Mr. David Sherriff-Scott	194
Comments by/Commentaires par Mr. Peter Engelmann	194
Comments by/Commentaires par Mr. David Sherriff-Scott	197
THOMAS P. DOYLE, Sworn/Assermenté	200
Examination on qualifications by/Interrogatoire sur Les qualifications par Mr. Peter Engelmann	200
Cross-Examination on qualifications by/Contre- Interrogatoire sur les qualifications par Mr. David Sherriff-Scott	260

Table of Contents / Table des matières

	Page
Submissions by/Représentations par Mr. Peter Wardle	291
Cross-Examination on qualifications by/Contre- Interrogatoire sur les qualifications par Mr. David Sherriff-Scott (cont'd/suite)	292
Re-Examination on qualifications by/RÉ-interrogatoire Sur les qualifications par Mr. Peter Engelmann	329
Motion for the exclusion of the evidence of Thomas P. Doyle in the matter of the Cornwall Public Inquiry by/Requête pour l'exclusion de la preuve de Thomas P. Doyle dans la cause de l'enquête publique sur Cornwall par Mr. David Sherriff-Scott	331
Submissions by/Représentations par Mr. Peter Wardle	349
Submissions by/Représentations par Mr. Dallas Lee	358
Submissions by/Représentations par Mr. David Bennett	373
Submissions by/Représentations par Mr. Peter Chisholm	377
Submissions by/Représentations par Ms. Danielle Robitaille	380
Submissions by/Représentations par Mr. Peter Engelmann	380
Submissions by/Représentations par Mr. David Sheffiff-Scott	382
Remarks and Ruling on motion for the exclusion of the evidence of Thomas P. Doyle by the Commissioner/Décision concernant la requête d'exclusion la preuve de Thomas P. Doyle par le Commissaire	384
Submissions by/Représentations par Mr. David Sherriff-Scott	386

Table of Contents / Table des matières

	Page
Housekeeping matters by/Matières administrative par Mr. Peter Engelmann	386

LIST OF EXHIBITS/LISTE D'EXHIBITS

NO.	DESCRIPTION	PAGE NO
P-633(a)	Copy of 1962 Vatican Instructions (de modo procedendi in causis sollicitationis) - Latin version	41
P-633(b)	Copy of 1962 Vatican Instructions (on the matter of proceeding in cases of solicitation) - English version	41
P-634	Studia canonica article 201CCanon Law meets Civil Law201D by Rev. F. G. Morrisey 2013 Dated 1997	60
P-635	Ontario Superior Court of Justice Statement of Claim 2013 Court File No. 00-00-015075	122
I-636	Book of Documents for The Reverend Thomas P. Doyle	201
M9-A1	Motion Record - Motion for exclusion of evidence of Thomas P. Doyle	189
M9-A2	Book of Authorities for the Motion for exclusion of evidence of Thomas P. Doyle	190
M9-A3	(122991) Print out from Website Project Truth	270

1 --- Upon commencing at 9:41 a.m./

2 L'audience débute à 9h41

3 **THE REGISTRAR:** This hearing of the Cornwall
4 Public Inquiry is now in session. The Honourable Mr.
5 Justice Normand Glaude, Commissioner, presiding.

6 Please be seated. Veuillez vous asseoir.

7 **THE COMMISSIONER:** Thank you.

8 Good morning, all.

9 I apologize for the lateness. This time it
10 was indeed my fault. A telephone call that just took too
11 long. In any event, I'll try to remedy that in the future.

12 Mr. Engelmann, good morning.

13 **MR. ENGELMANN:** Good morning, sir. Good
14 morning, Mr. Commissioner. Good morning, Father Morrissey.

15 I just wanted to report, sir, ---

16 **THE COMMISSIONER:** Okay.

17 **MR. ENGELMANN:** --- starting with cross-
18 examination from the Victims Group, Mr. Talach is here.
19 You may remember him from some time ago.

20 **THE COMMISSIONER:** M'hm.

21 **MR. ENGELMANN:** I don't think there are
22 other new faces, although Mr. Bennett has joined us today I
23 note.

24 And I just wanted to give you an indication
25 and give Father Morrissey and indication with the timing.

1 Mr. Talach will be some time and then there are a couple of
2 lawyers for parties who said they'd be quite brief. Many
3 have no questions. And Mr. Sherriff-Scott has asked to go
4 last for the Diocese.

5 **THE COMMISSIONER:** M'hm.

6 **MR. ENGELMANN:** So I anticipate we will be -
7 - have no problem finishing for the lunch break.

8 **THE COMMISSIONER:** Okay. Thank you.

9 **MR. ENGELMANN:** Thank you.

10 I'll turn it over to Mr. Talach.

11 **THE COMMISSIONER:** All right. Thank you.

12 Good morning, sir.

13 **MR. TALACH:** Good morning, Mr. Commissioner.

14 **FRANCIS G. MORRISEY, Resumed/Sous le même serment:**

15 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

16 **TALACH:**

17 **MR. TALACH:** Good morning, Father Morrisey.

18 **REVEREND MORRISEY:** Hi.

19 **MR. TALACH:** My name is Rob Talach and I'm
20 one of the lawyers for the Victims Group.

21 Now, you're probably familiar with the
22 different parties here, but specifically the Victims Group
23 is a group just shy of 50 individuals that were victims of
24 sexual abuse and they have a very strong interest in seeing
25 that this Inquiry is able to assist reducing those

1 occurrences and God willing eliminate them.

2 Okay?

3 **REVEREND MORRISEY:** Yes.

4 **MR. TALACH:** Now, right off the bat I want
5 to talk to you about the issue of bias, and you'd agree
6 with me that most of us come to an issue with some personal
7 bias?

8 **REVEREND MORRISEY:** You come to it with your
9 personal experience, yes.

10 **MR. TALACH:** And that's it. It's based on
11 your experiences and the angle that you've looked at a
12 problem throughout dealing with it; correct?

13 **REVEREND MORRISEY:** I don't know if I'd call
14 it bias, but ---

15 **THE COMMISSIONER:** Well, I think bias is --
16 if we use it in a neutral sense.

17 **REVEREND MORRISEY:** Yes.

18 **THE COMMISSIONER:** And so if we can agree
19 that bias in a neutral sense really equates to life's
20 experiences. Is that fair?

21 **MR. TALACH:** That's exactly it. I'm not
22 speaking of malicious bias or something that's ---

23 **REVEREND MORRISEY:** Yes.

24 **MR. TALACH:** But there's almost a natural
25 bias in everyone's outlook on different issues. Is that

1 fair?

2 REVEREND MORRISEY: Yes.

3 MR. TALACH: Okay. And I just want to
4 review your background a little bit with some highlights.
5 You entered -- or even before you entered religious life I
6 would expect you grew up a devote Catholic in the
7 Maritimes?

8 REVEREND MORRISEY: I grew up in Ottawa. My
9 father was in the army. I was born in Prince Edward Island
10 but he was transferred to Ottawa.

11 MR. TALACH: See, that was a risk I took
12 hoping that you had grown up in PEI.

13 And you eventually decided at the age of 19
14 to pursue the priesthood?

15 REVEREND MORRISEY: Yes.

16 MR. TALACH: And you entered a religious
17 order or started to study for a religious order?

18 REVEREND MORRISEY: That's right.

19 MR. TALACH: And religious orders are a
20 little bit different than entering life or entering a
21 Diocese. There's a bit more of an onus. There's some more
22 vows and promises and things like that involved.

23 REVEREND MORRISEY: More obligations, yes.

24 MR. TALACH: Okay. And you were ordained to
25 the priesthood in 1961. Is that right?

1 REVEREND MORRISEY: That's right.

2 MR. TALACH: So this September, if my math
3 is correct, you'll be celebrating 46 years as a priest?

4 REVEREND MORRISEY: Yes.

5 MR. TALACH: Okay. What do you get at 50?

6 REVEREND MORRISEY: Oh, I don't know.

7 MR. TALACH: Does the Pope send you
8 anything?

9 REVEREND MORRISEY: No.

10 MR. TALACH: So that's almost half a century
11 in service.

12 REVEREND MORRISEY: Yes.

13 MR. TALACH: And that's not half a century
14 in some parish in Chrysler, Ontario or somewhere; you've
15 really experienced the priesthood?

16 REVEREND MORRISEY: Yes, from an academic
17 perspective.

18 MR. TALACH: You've been able to achieve, is
19 it 11 post-secondary degrees in that period?

20 REVEREND MORRISEY: Yes.

21 MR. TALACH: And you've had the joy of being
22 able to focus on a particular area, that being Canon Law?

23 REVEREND MORRISEY: Canon Law, yes.

24 MR. TALACH: You've traveled and experience
25 Catholicism to it's fullest. You've served at the Vatican

1 and around the world.

2 REVEREND MORRISEY: Yes, I've spoken in over
3 40 countries.

4 MR. TALACH: And your work at St. Paul's
5 over the years has involved you in the formation of young
6 priests?

7 REVEREND MORRISEY: Yes, of future priests.

8 MR. TALACH: You have known and continue to
9 know many priests, bishops, maybe even cardinals. I'm not
10 sure.

11 REVEREND MORRISEY: Yes.

12 MR. TALACH: Okay. And many of your close
13 friends and colleagues are ordained priests?

14 REVEREND MORRISEY: A priest, yes.

15 MR. TALACH: Now, I take it from your
16 evidence and from some of your literature that you have
17 known priests that have struggled with this demon of sexual
18 misconduct?

19 REVEREND MORRISEY: Yes.

20 MR. TALACH: You've advised or represented
21 them in, you know, making sure their canonical rights are
22 protected?

23 REVEREND MORRISEY: I've tried to.

24 MR. TALACH: Tried to. And you've seen some
25 of these priests suffer from the injustices that are

1 inherent in any human system, in any institution?

2 REVEREND MORRISEY: Yes.

3 MR. TALACH: I think you said yesterday that
4 at one point CNN was running the U.S. church. Is that
5 right?

6 REVEREND MORRISEY: Yes.

7 MR. TALACH: So sometimes law and procedure
8 go out the window to public pressure?

9 REVEREND MORRISEY: Unfortunately.

10 MR. TALACH: You've spent your career as a
11 canon lawyer emphasizing the rights of all of the members
12 of the Catholic Church; correct?

13 REVEREND MORRISEY: Trying to.

14 MR. TALACH: And you've had some particular
15 focus on the rights of priests?

16 REVEREND MORRISEY: Yes.

17 MR. TALACH: There's a lot more in the
18 canons about the rights of the priests than there are of
19 the rights of the laity; correct?

20 REVEREND MORRISEY: There's a lot more in
21 the canons about the obligations of priests.

22 MR. TALACH: Okay. It's a two-way street is
23 what you're telling me?

24 REVEREND MORRISEY: Yes.

25 MR. TALACH: Okay. And you've worked on the

1 procedures that -- or on the '87 Code? You actually worked
2 on the code that is now in effect?

3 REVEREND MORRISEY: The '83 Code, yes.

4 MR. TALACH: Or the '83 Code. Sorry.

5 Now, because you worked on that and you've
6 also been a party of From Pain to Hope, I don't know, has
7 it felt to you that people may be criticizing your work
8 indirectly?

9 REVEREND MORRISEY: Well, when you're
10 pushing the envelope and trying to move things ahead a bit
11 there is always resistance or reluctance.

12 MR. TALACH: You may feel that people here
13 are criticizing your work. Is that true?

14 REVEREND MORRISEY: You mean here in this
15 room?

16 MR. TALACH: Yes.

17 REVEREND MORRISEY: I'm not aware of anyone
18 yet.

19 MR. TALACH: Not yet.

20 (LAUGHTER/RIRES)

21 Now, I guess we'll get into this, but you
22 may have even advised this diocese over the years on canon
23 law and how to deal with some of these allegations?

24 REVEREND MORRISEY: Yes.

25 MR. TALACH: And up until the present day

1 you continue to work for the Church via your job at St.
2 Paul's and via your expertise as a canon lawyer?

3 **REVEREND MORRISEY:** Yes.

4 **MR. TALACH:** I mean, your first involvement
5 with this Inquiry was providing an affidavit in support of
6 the Diocese of Alexandria-Cornwall; correct?

7 **REVEREND MORRISEY:** That was about two years
8 ago, yes.

9 **MR. TALACH:** Okay.

10 **REVEREND MORRISEY:** November 2005.

11 **MR. TALACH:** That's right.

12 And in that respect, you were a component of
13 their advocacy here at the Inquiry?

14 **REVEREND MORRISEY:** Well, I don't know if I
15 would say that. I was asked some questions and I answered
16 the questions.

17 **MR. TALACH:** Okay. Sir, you're a very
18 accomplished priest. I'm sure you're not going to disagree
19 with me on that?

20 **REVEREND MORRISEY:** Ask my bishop.

21 **MR. TALACH:** And I can take it you're a
22 proud priest?

23 **REVEREND MORRISEY:** I am very proud, proud
24 to be a priest, yes.

25 **MR. TALACH:** And yesterday you made

1 reference to a provision in the Code and I didn't catch it,
2 but the comment is what I'm going to focus on. You said
3 that "that was the best protection we had". Do you
4 remember that?

5 **REVEREND MORRISEY:** The law is the best
6 protection we have, yes.

7 **MR. TALACH:** And when you said "we" in that
8 context you were referring to you and all the other brother
9 priests that you have?

10 **REVEREND MORRISEY:** Yes.

11 **MR. TALACH:** Okay. You are and will always
12 be a member of a fraternal society, the Roman Catholic
13 priesthood, right?

14 **REVEREND MORRISEY:** I hope so.

15 **MR. TALACH:** Okay. So considering those
16 circumstances I just reviewed, would you agree that you're
17 going to hold some of this natural bias in favour of
18 defending how the church has handled these matters?

19 **REVEREND MORRISEY:** No, when I got involved
20 with this I saw that priests' rights were not being
21 respected. There were quite a number of other people who
22 were looking after victims, so organizations and so on. So
23 I tried to fill that void on the way in which priests'
24 rights and obligations would be looked into.

25 **MR. TALACH:** Okay. So you're not

1 experiencing any feelings at this Inquiry of having to
2 defend the Church or your conduct indirectly or anything?

3 **REVEREND MORRISEY:** No, I was asked to be
4 here to say what is the Church law and that was the
5 agreement.

6 **MR. TALACH:** Okay. Now, just looking at the
7 other side of it, you haven't worked first hand with
8 victims of sexual abuse?

9 **REVEREND MORRISEY:** No.

10 **MR. TALACH:** Okay. So your practice area as
11 a priest has never been involved with the Catholic
12 Community Services and those type of endeavours?

13 **REVEREND MORRISEY:** Not directly.

14 **MR. TALACH:** Okay. You've never had a
15 victim call you in the middle of the night because of a
16 nightmare they just had?

17 **REVEREND MORRISEY:** No.

18 **MR. TALACH:** You haven't had any first hand
19 contact like that?

20 **REVEREND MORRISEY:** No.

21 **MR. TALACH:** Now, in the Pain to Hope
22 process, the ad hoc committee, I understand there were four
23 workgroups?

24 **REVEREND MORRISEY:** Correct.

25 **MR. TALACH:** And one of them focused on the

1 victims in that pastoral aspect?

2 REVEREND MORRISEY: Yes.

3 MR. TALACH: And you weren't part of that
4 group?

5 REVEREND MORRISEY: No.

6 MR. TALACH: No. Okay.

7 You have attended before what I'll refer to
8 as secular courts, the courts in the civil world, but not
9 on behalf of the victims or in support of their cases?

10 REVEREND MORRISEY: That's correct.

11 MR. TALACH: Would you agree that your
12 experiences in working with the Church on one hand and
13 working with victims on the other aren't completely
14 balanced. You have done a lot more on the Church side of
15 the equation?

16 REVEREND MORRISEY: What I'm trying to do is
17 to find the truth and find what the law says and how it
18 applies in a given case.

19 MR. TALACH: I am just trying to get a feel
20 for your experiences in your perspective. And I am going
21 to put the proposition to you and see if you agree that you
22 are overwhelmingly dealing with this matter from the
23 perspective of the institutional Church. Is that fair?

24 REVEREND MORRISEY: From the perspective of
25 the priests involved and then from the perspective of how

1 the law could be applied.

2 **MR. TALACH:** Okay, so firstly from the
3 perspective of the priests involved those that have been
4 accused of these crimes?

5 **REVEREND MORRISEY:** Yes.

6 **MR. TALACH:** Okay. Now, you know Father Tom
7 Doyle. He was a student of yours?

8 **REVEREND MORRISEY:** Yes.

9 **MR. TALACH:** And through that exposure, I
10 think you indicated yesterday, you got some advance or you
11 got sort of a look at his 92 page report that he sent to
12 the U.S. bishops?

13 **REVEREND MORRISEY:** Yes.

14 **MR. TALACH:** And that report you sort of
15 built on for your proposal to the Canadian bishops in 1987?

16 **REVEREND MORRISEY:** I did.

17 **MR. TALACH:** Now there is a publication
18 called The Priest, I take it that's a respected publication
19 within the Church?

20 **REVEREND MORRISEY:** It's not a scientific
21 periodical. It's more in the line of spirituality.

22 **MR. TALACH:** You have been published in it?

23 **REVEREND MORRISEY:** Not in The Priest.

24 **MR. TALACH:** Not in The Priest?

25 **REVEREND MORRISEY:** No.

1 MR. TALACH: Tom Doyle has been published in
2 it?

3 REVEREND MORRISEY: Yes.

4 MR. TALACH: But Studia Canonica is a more
5 academic journal?

6 REVEREND MORRISEY: Yes.

7 MR. TALACH: You were the editor at one
8 time?

9 REVEREND MORRISEY: I founded the review.

10 MR. TALACH: Is that peer reviewed?

11 REVEREND MORRISEY: Yes, very much so.

12 MR. TALACH: And you have been published in
13 it obviously?

14 REVEREND MORRISEY: Yes.

15 MR. TALACH: And Tom Doyle has been as well?

16 REVEREND MORRISEY: Yes.

17 MR. TALACH: Now, the new Code came out in
18 '83 and am I correct that Father Doyle's proposal to the
19 U.S. bishops came out in '85?

20 REVEREND MORRISEY: It's '84 or '85.

21 MR. TALACH: So he was pretty close on the
22 heels of the new Code?

23 REVEREND MORRISEY: Yes.

24 MR. TALACH: I take it that he was one of
25 the first people to try and apply that new Code to this

1 issue of clergy sexual abuse?

2 REVEREND MORRISEY: I would say that he one
3 of the first persons who wrote on that issue after the Code
4 came out.

5 MR. TALACH: I am sure people were
6 struggling to apply the new Code right out of the bat.

7 REVEREND MORRISEY: Well, they were trying
8 to but it was such a completely new set of laws that it
9 took some time to get into it.

10 MR. TALACH: Okay.

11 REVEREND MORRISEY: It's just like in Canada
12 we had the new Charter of Rights. It took years to
13 understand what was involved in those various articles.

14 MR. TALACH: Well, I'm sure all the criminal
15 lawyers in the room would say we are still struggling with
16 it.

17 REVEREND MORRISEY: Yes.

18 MR. TALACH: Because of the influence of
19 Father Doyle's work on your '87 work, is it fair to say
20 that he has indirectly influenced the Canadian protocols on
21 these issues?

22 REVEREND MORRISEY: Yes, particularly his
23 idea that this be a team approach. That was the key point
24 of his document that we took.

25 MR. TALACH: And that team approach has now

1 really been universally applied in these different
2 jurisdictions that have protocols?

3 REVEREND MORRISEY: The places that have it,
4 yes, his idea is.

5 MR. TALACH: And it seems to be working?

6 REVEREND MORRISEY: It's very practical and
7 it gives a fuller picture.

8 MR. TALACH: Now, Father Paulson was also
9 one of your students?

10 REVEREND MORRISEY: Yes.

11 MR. TALACH: And he wrote On the clinical
12 and canonical considerations of cases of pedophilia, the
13 bishop's role. Do you recall that?

14 REVEREND MORRISEY: Yes.

15 MR. TALACH: And he cites both you and
16 Father Doyle in that article?

17 REVEREND MORRISEY: Yes.

18 MR. TALACH: You acknowledge Father Doyle's
19 expertise in canon law?

20 REVEREND MORRISEY: Yes.

21 MR. TALACH: And clearly you are aware of
22 his work specifically on how it applies to issues of clergy
23 sexual abuse of minors?

24 REVEREND MORRISEY: I followed his various
25 interventions.

1 **MR. TALACH:** Okay. And he, like you, worked
2 as a canonist for the Vatican at the time?

3 **REVEREND MORRISEY:** He worked at the Vatican
4 Embassy in Washington.

5 **MR. TALACH:** And you worked as a consultant
6 on the '83 Code?

7 **REVEREND MORRISEY:** Yes.

8 **MR. TALACH:** And it was his time at that
9 Vatican Embassy where he was first exposed to these cases
10 through the Diocese of Lafayette problems?

11 **REVEREND MORRISEY:** When those cases came
12 out, he was there. Whether he was first exposed, I don't
13 -- you would have to ask him that.

14 **MR. TALACH:** Okay. And he, like you, has
15 worked on upholding the canonical rights of accused
16 priests?

17 **REVEREND MORRISEY:** Yes.

18 **MR. TALACH:** Now, you are aware he has more
19 recently worked with victims?

20 **REVEREND MORRISEY:** Yes.

21 **MR. TALACH:** And he has testified on behalf
22 of the victims, not always on behalf of the Church like
23 you?

24 **REVEREND MORRISEY:** Yes.

25 **MR. TALACH:** Would you agree he has sort of

1 seen both perspectives of this?

2 REVEREND MORRISEY: Well, there are
3 different ways of looking at the same image.

4 MR. TALACH: And he has seen it from two
5 different angles?

6 REVEREND MORRISEY: Well, he is focusing --
7 he is focusing more particularly on the way in which the
8 victim's voice is being heard.

9 MR. TALACH: And previously much like your
10 career, he had focused on the canonical side of it?

11 REVEREND MORRISEY: Yes.

12 MR. TALACH: The priest and the Church?

13 REVEREND MORRISEY: Yes.

14 MR. TALACH: Is that fair?

15 REVEREND MORRISEY: Yes.

16 MR. TALACH: Now, when we talked about
17 balance earlier with that perspective, would you say he may
18 have a little more of a balanced experience in this area?

19 REVEREND MORRISEY: I wouldn't want to say
20 that. I wouldn't want to deny it, but I wouldn't want to
21 say it because it's going to depend what you mean by
22 balance. Because sometimes that can happen, you can go too
23 far one way.

24 MR. TALACH: Now, I'm going to turn my focus
25 now and I'll try and give you advance notice of where I'm

1 going, so we can all have our mind in the right place.

2 I want to talk about the Church's handling
3 of the specific matter of clergy sexual abuse. Okay,
4 Father?

5 **REVEREND MORRISEY:** Sure.

6 **MR. TALACH:** And I will try my best to give
7 you timeframes and areas to focus on, but if we get
8 confused, just let me know.

9 You would agree that the Church most
10 recently as in the past decade have taken some innovative
11 steps to address this issue?

12 **REVEREND MORRISEY:** Yes, it's starting.

13 **MR. TALACH:** It's starting. Not finished
14 yet?

15 **REVEREND MORRISEY:** No, by no means.

16 **MR. TALACH:** And I mean you'd likely view
17 this Commission as part of that process?

18 **REVEREND MORRISEY:** This Commission?

19 **MR. TALACH:** Yes.

20 **REVEREND MORRISEY:** Well, this is not a
21 Church Commission, but what I'm hoping is if there's
22 information that comes out of it or things that can be
23 used, that this will filter down, you know, to all the
24 levels not only the Church but any other level where it
25 would apply.

1 **MR. TALACH:** Now, going -- taking that at
2 about a 10-year point, let's use the year of '92 when From
3 Pain to Hope came out, going back in the past beyond that,
4 you would agree that the Church has really struggled with
5 the problem?

6 **REVEREND MORRISEY:** I'd agree that the
7 Church tried to address the problem, but they addressed it
8 with the knowledge that they had at the time and the
9 experience they had at the time. And as new experiences
10 come up and new studies that have given us new insights
11 into what's involved, then the attitude, the response had
12 to be adjusted.

13 **MR. TALACH:** Is it fair to say they did the
14 best with what they had at the time?

15 **REVEREND MORRISEY:** That's what I hope so.

16 **MR. TALACH:** Now, the Church is in the
17 service of God, but it's staffed by human beings.

18 **REVEREND MORRISEY:** Like any activity.

19 **MR. TALACH:** Exactly. And someone always
20 said to me there's an eraser on a pencil for a reason.
21 Humans, all humans make mistakes. Fair?

22 **REVEREND MORRISEY:** Except the two of us,
23 yes.

24 **(LAUGHTER/RIRES)**

25 **MR. TALACH:** I thought you were going to say

1 the Pope to that.

2 REVEREND MORRISEY: Oh.

3 MR. TALACH: The principle of papal
4 infallibility, but it's good to know.

5 Now, you've served the Church a long time.

6 REVEREND MORRISEY: Yes.

7 MR. TALACH: And if anybody knows the warts
8 on it, it's going to be you.

9 THE COMMISSIONER: The what?

10 MR. TALACH: Warts.

11 THE COMMISSIONER: Oh, right.

12 REVEREND MORRISEY: Well, there would be
13 other people who have been directly involved in the
14 complete internal workings.

15 MR. TALACH: You'd have a pretty good view
16 of it though.

17 REVEREND MORRISEY: I think I have a general
18 overview, but I don't have all the details because many of
19 these cases, as we mentioned yesterday, are not publicized.

20 MR. TALACH: So -- and I'm going to talk
21 about silence and secrecy -- that has even inhibited you on
22 the inside of the Church from fully learning about this
23 issue?

24 REVEREND MORRISEY: Well, I learned about
25 the principles. I don't know about the application in case

1 X, or Y, or Z.

2 MR. TALACH: Because those are top secret?

3 REVEREND MORRISEY: Yes, it's what we call,
4 like, there's cases in camera that are held, and they --
5 you have the same thing in your law system. You don't
6 allow the names to be released at times, you don't -- it's
7 the same type of thing.

8 MR. TALACH: Well, I noticed you made that
9 comparison yesterday, and I just wanted to clear that up.
10 You do understand that our criminal cases in Canada are
11 public?

12 REVEREND MORRISEY: Not everything is
13 public.

14 MR. TALACH: Well, the victim's names in
15 sexual abuse cases are withheld under statute.

16 REVEREND MORRISEY: Okay.

17 MR. TALACH: You understand that?

18 REVEREND MORRISEY: And among other things.

19 MR. TALACH: But generally when someone is
20 charged in the secular courts in criminal cases, it's a
21 public issue.

22 REVEREND MORRISEY: Generally, yes.

23 MR. TALACH: Generally, yes.

24 But it's the opposite in the Church,
25 especially in issues as clear as the sexual abuse of

1 minors.

2 REVEREND MORRISEY: Yes.

3 MR. TALACH: It's secret.

4 REVEREND MORRISEY: Because of the role of
5 conscience in there.

6 MR. TALACH: But it's always secret
7 regardless of whether there's conscience there or not,
8 right?

9 REVEREND MORRISEY: Well, it depends on the
10 type of case, yes.

11 MR. TALACH: But there's a blanket secrecy.
12 There's no test to see if this is going to be secret or
13 not. The default position -- the default position is this
14 is going to be secret.

15 REVEREND MORRISEY: For any case in the
16 Church? No.

17 MR. TALACH: For cases of clergy sexual
18 abuse of minors.

19 REVEREND MORRISEY: Clergy sexual abuse,
20 yes.

21 MR. TALACH: Yes. Okay.

22 Now, as we head into this, I want to remind
23 you again there's no attempt to be critical of you here.
24 This is an examination of the Church. Okay, Father?

25 Secrecy and silence, let's talk about that.

1 We know you were a part of From Pain to Hope and I want to
2 take you to that document and just discuss a paragraph in
3 there. So that will be Exhibit 632, Tab 13, the
4 publication From Pain to Hope, page 22. Now, about in the
5 middle of that page, page 22, you'll see a paragraph that
6 states:

7 "At that time, however, the public was
8 not sufficiently aware of an essential
9 element in the problem of abuse."

10 And this is what I want to go over. It states:

11 "The ideal breeding ground for the
12 development and repetition of sexual
13 abuse is a general conspiracy of
14 silence motivated by the fear of
15 scandal and of major repercussions for
16 the institutions directly or indirectly
17 involved."

18 That's a publication from the Church
19 essentially, right? It's the Catholic Conference of
20 Canadian Bishops?

21 **REVEREND MORRISEY:** Yes, the Canadian
22 Conference of Catholic Bishops, yes.

23 **MR. TALACH:** And I'll be referring to that
24 as the CCCB in the future to save us with the tongue
25 twister, okay.

1 So would you agree that to a certain extent
2 there has been a conspiracy of silence in the Church's
3 response?

4 **REVEREND MORRISEY:** No, I'm not going to
5 call it conspiracy.

6 **MR. TALACH:** I'm just borrowing the words
7 from the Bishops' report.

8 **REVEREND MORRISEY:** Fine. They said that.
9 I didn't write that.

10 **MR. TALACH:** You don't agree with the issue
11 of conspiracy?

12 **REVEREND MORRISEY:** I wouldn't call it a
13 conspiracy. I would call it -- it's a form of law. It was
14 there and that was the way it was set up.

15 **MR. TALACH:** I guess we'll have to try and
16 determine before I'm done what's the reason for the secrecy
17 then to be able to conclude on the conspiracy issue, right?

18 **REVEREND MORRISEY:** That's up to you.

19 **MR. TALACH:** Now, on that issue, part of the
20 motivation for the silence, which we agree there was
21 silence, is firstly the fear of scandal. Is that fair?

22 **REVEREND MORRISEY:** I didn't say that.

23 **MR. TALACH:** Okay. But this publication
24 says that and it comes from the Church. So I'm just trying
25 to start with something I suspected we'd agree with.

1 **REVEREND MORRISEY:** I don't agree with every
2 church document that's been issued.

3 **MR. TALACH:** Okay. So you don't think fear
4 of scandal is a factor in the silence?

5 **REVEREND MORRISEY:** I didn't say it wasn't a
6 factor. You were saying it was the factor.

7 **MR. TALACH:** No, I said it's some of the
8 motivation for the silence is firstly the fear of scandal.

9 **REVEREND MORRISEY:** There's always -- every
10 institution wishes to protect itself.

11 **MR. TALACH:** The Catholic Church though has
12 a specific definition of scandal. Is that fair?

13 **REVEREND MORRISEY:** Scandal is what leads
14 others into sin.

15 **MR. TALACH:** Okay. I have the definition
16 here from Catechism 2284. I'm just going to read it to you
17 and see if it sounds correct:

18 "Scandal is an attitude or behaviour
19 which leads another to do evil. The
20 person who gives scandal becomes his
21 neighbour's tempter. He damages virtue
22 and integrity and may even draw his
23 brother into spiritual death."

24 Does that sound about right?

25 **REVEREND MORRISEY:** That's what I said; it

1 leads others into sin.

2 **MR. TALACH:** Okay. No, I'm not criticizing.

3 **REVEREND MORRISEY:** No, no. That's exactly
4 the same thing.

5 **MR. TALACH:** And in these cases of clergy
6 sexual abuse of minors, it's the public knowledge of it
7 that can negatively affect the faith of the followers.
8 That's ultimately the scandal of it, right?

9 **REVEREND MORRISEY:** Two things: the public
10 knowledge that such things existed and the way in which
11 they were handled.

12 **MR. TALACH:** Okay. That's fair.

13 And when the public learns about these cases
14 -- and I take it you're consciously aware of this -- they
15 start to question the integrity of other priests?

16 **REVEREND MORRISEY:** Unfortunately.

17 **MR. TALACH:** And that's a big problem for
18 the Church because how can they minister if they're
19 doubted, right?

20 **REVEREND MORRISEY:** It makes it very
21 difficult at times.

22 **MR. TALACH:** Okay. And it makes the
23 parishioners wonder how could God let such a horrific event
24 occur?

25 **REVEREND MORRISEY:** Well, I don't know if

1 I'd say that.

2 **MR. TALACH:** But you would agree it calls
3 their faith into question. It makes them really think
4 about things?

5 **REVEREND MORRISEY:** Yes, it calls faith into
6 question.

7 **MR. TALACH:** And that's the last thing the
8 Church wants. The Church doesn't want people to stray from
9 the faith?

10 **REVEREND MORRISEY:** The last words of the
11 Code are the supreme laws, the salvation of souls. That's
12 what the Church wants.

13 **MR. TALACH:** And if people stray from the
14 Church, the salvation of their soul becomes more
15 problematic; correct?

16 **REVEREND MORRISEY:** It's going to depend if
17 they're following their conscience.

18 **THE COMMISSIONER:** I'm sorry, say that
19 again?

20 **REVEREND MORRISEY:** If they're following
21 their conscience.

22 **THE COMMISSIONER:** M'hm.

23 **MR. TALACH:** Sorry, if they're following
24 their conscience what?

25 **REVEREND MORRISEY:** Well, if people decide

1 to leave the Church and they're following their conscience
2 and they have an informed conscience, I will respect their
3 decision.

4 **MR. TALACH:** But the Church offers many
5 mechanisms and is part of the process of ensuring someone's
6 salvation?

7 **REVEREND MORRISEY:** That's what we're --
8 that's what it's all about.

9 **MR. TALACH:** Okay. Now, knowledge of this
10 type of event, a priest abusing a child, also has a
11 negative impact on the Church as a whole, not just on the
12 reputation of other priests, right?

13 **REVEREND MORRISEY:** Yes.

14 **MR. TALACH:** I mean, the Church is a moral
15 authority in society?

16 **REVEREND MORRISEY:** Hopefully.

17 **MR. TALACH:** Hopefully.

18 And that position is obviously jeopardized
19 if knowledge is public that some of its employees, its
20 priests, are doing these type of deeds. Is that fair?

21 **REVEREND MORRISEY:** It doesn't help.

22 **MR. TALACH:** It doesn't help.

23 So this public knowledge affects the
24 integrity and reputation of other priests and it also
25 challenges the moral authority of the Church?

1 REVEREND MORRISEY: It could, yes.

2 MR. TALACH: Big problems, right?

3 REVEREND MORRISEY: Difficulties, yes.

4 MR. TALACH: Difficulties.

5 So, I mean, would you agree that this is a
6 reason or this is two good reasons for the Church to try
7 and keep the public knowledge of these events to a minimum?

8 REVEREND MORRISEY: Well, I'm going to -- I
9 would take the highest one as Canon 220 on the right of
10 privacy, respecting the right of privacy of any individual
11 and that I have no right to violate a person's integrity.
12 That, for me, is the basic principle here.

13 MR. TALACH: And that right of privacy and
14 reputation, from it springs all the protections that would
15 justify this silence, right?

16 REVEREND MORRISEY: All of them? I don't
17 know if I would say all of them, but some of them, yes.

18 MR. TALACH: Okay. Clearly, if a priest has
19 actually done this there is no reputation to protect?

20 REVEREND MORRISEY: Well, you see, in a lot
21 of cases -- don't forget -- there's two parallel things
22 going on. There's also the secular courts that are
23 handling this, and that's all public and known. So ---

24 MR. TALACH: Assuming it gets to the secular
25 court.

1 REVEREND MORRISEY: Assuming it gets there.

2 MR. TALACH: And we know and you know from
3 your study in this area that lots of cases didn't get to
4 the secular courts.

5 REVEREND MORRISEY: Sometimes people didn't
6 want to file charges.

7 MR. TALACH: And sometimes other things
8 happened, right?

9 REVEREND MORRISEY: You might know them,
10 yes.

11 MR. TALACH: We'll get into some of those.

12 I want to take you back to Pain to Hope
13 again at page 22. So that's Exhibit 632, Tab 13, From Pain
14 to Hope, page 22. It goes on at the bottom of the page,
15 and you'll see it starts with the bolded portion:

16 "The fear of scandal often conditions
17 our instinctive reactions of
18 inadvertently protecting the
19 perpetrators and a certain image of the
20 Church or the institutions we represent
21 rather than the children who are
22 powerless to defend themselves."

23 Would you agree that this is a fair
24 description of what has happened, instinctively, in the
25 past and some dioceses have dealt with this problem?

1 **REVEREND MORRISEY:** It certainly was a
2 factor.

3 **MR. TALACH:** I want to suggest to you that
4 in the pre-1990 period that the reaction of silence and
5 protection of the perpetrator and the Church was actually
6 formalized within the Church's laws.

7 **REVEREND MORRISEY:** It's going to depend
8 what you mean by formalized.

9 **MR. TALACH:** Okay. Let's go through that
10 then. Let's talk about 1922. You referred to a Vatican
11 instruction, and I don't think we need it, but just for the
12 record, it was Exhibit 632, Tab 21.

13 I'm not going to dare take a shot at this in
14 Latin, but essentially the title is on the matter of
15 proceeding in cases of solicitation?

16 **REVEREND MORRISEY:** Yes.

17 **MR. TALACH:** And we've already gone over
18 this. This is a real legitimate Vatican document received
19 by the bishops of the world?

20 **REVEREND MORRISEY:** Yes.

21 **MR. TALACH:** But it's an instruction which
22 doesn't make it law. You compared it to a regulation?

23 **REVEREND MORRISEY:** Yes.

24 **MR. TALACH:** It's an important document,
25 though, we'd agree with that?

1 **REVEREND MORRISEY:** It had an important role
2 to play, yes.

3 **MR. TALACH:** And there isn't a lot of
4 documents coming from the Vatican that you wouldn't say are
5 important, right?

6 **REVEREND MORRISEY:** Oh, no, there is an
7 awful lot of useless stuff comes from it.

8 **(LAUGHTER/RIRES)**

9 **MR. TALACH:** Well, we'll hope the Pope isn't
10 watching this on the web cam.

11 **(LAUGHTER/RIRES)**

12 **MR. TALACH:** Now, the first thing about this
13 document is it says it's to be stored in the secret
14 archives, right?

15 **REVEREND MORRISEY:** Yes.

16 **MR. TALACH:** And that's a place where the
17 more secret confidential material of the Church is held?

18 **REVEREND MORRISEY:** More confidential, yes.

19 **MR. TALACH:** And there is a specific
20 prohibition on this, the cover of this document, from it
21 being published; is that fair?

22 **REVEREND MORRISEY:** Not on the cover, no.

23 **MR. TALACH:** But there is a direction that
24 it not be published?

25 **REVEREND MORRISEY:** There's a direction it

1 not be published, yes.

2 **MR. TALACH:** So the document in a sense is
3 secret and it's to be stored secretly?

4 **REVEREND MORRISEY:** Yes.

5 **MR. TALACH:** Now, within it would you agree
6 there is some focus on silence or secrecy?

7 **REVEREND MORRISEY:** Just one line that says
8 these cases are subject to the secret of the Holy Office,
9 which was a very standard practice in the Church.

10 **MR. TALACH:** For everything to be that
11 secret?

12 **REVEREND MORRISEY:** Well, perhaps not that
13 secret but that was a standard practice.

14 **MR. TALACH:** This is a little bit higher on
15 the level of ---

16 **REVEREND MORRISEY:** It's a higher level
17 because there are penalties for breaking the secrecy.

18 **MR. TALACH:** Now, I understand that cases of
19 solicitation clearly deal with some evidence that may have,
20 or events that may have occurred under the seal of the
21 confessional, correct?

22 **REVEREND MORRISEY:** Yes.

23 **MR. TALACH:** So we could see good reason why
24 those activities would be dealt with in a secret manner; is
25 that fair.

1 REVEREND MORRISEY: Yes.

2 MR. TALACH: But what I'm confused about is
3 why are these worst crimes dealt with under the same
4 default setting of high secrecy?

5 REVEREND MORRISEY: Because they concern
6 sins, very serious sins.

7 MR. TALACH: But almost any misconduct in
8 the Church concerns a sin, right?

9 REVEREND MORRISEY: Not every form of
10 misconduct is a sin.

11 MR. TALACH: Well, murder is clearly a sin.

12 REVEREND MORRISEY: Well, murder, but murder
13 was already in the Code. That was a completely different -
14 - completely different setup because murder was covered by
15 the secular law.

16 MR. TALACH: But so is sexual assault.

17 REVEREND MORRISEY: Yes.

18 MR. TALACH: But they didn't have a top
19 secret protocol for dealing with murder?

20 REVEREND MORRISEY: No.

21 MR. TALACH: No, okay.

22 And would you agree that these cases of the
23 worst crimes are very horrific crimes?

24 REVEREND MORRISEY: Well, if they weren't
25 horrific they wouldn't have been mentioned.

1 **MR. TALACH:** And I'm going to suggest to you
2 that they're put under this secrecy because of the impact
3 and the scandal they could cause.

4 **REVEREND MORRISEY:** That's your inference.
5 It's quite possible. I can't tell you. I wasn't born when
6 this document came out.

7 **MR. TALACH:** I mean with your background in
8 canon law and your understanding of this issue, have you
9 not seen a pattern that this type of scandalous material is
10 kept a little -- a little more secret?

11 **REVEREND MORRISEY:** We try to.

12 **MR. TALACH:** Okay.

13 **REVEREND MORRISEY:** To respect -- to protect
14 reputations. I keep saying that, and that's what I insist
15 on.

16 **MR. TALACH:** But I already said to you, if
17 the priest did it; is their a reputation to protect?

18 **REVEREND MORRISEY:** It could be. Just look
19 at the Truscott case yesterday. It's not in the Church for
20 the very same thing.

21 **MR. TALACH:** But that case was very public
22 and that publicity helped it come to a just outcome,
23 correct?

24 **REVEREND MORRISEY:** Well, not at the start;
25 52 years later, yes.

1 **MR. TALACH:** But the publicity, the public
2 knowledge is what helps get all the facts into these cases,
3 right?

4 **REVEREND MORRISEY:** Well, that was one of
5 the big problems, that they were saying facts were not made
6 available; facts were twisted.

7 **MR. TALACH:** And you would agree that any
8 type of secret process where witnesses wouldn't even know
9 the procedure was underway is not going to have the full
10 picture?

11 **REVEREND MORRISEY:** Well, it's going to
12 depend. As long as the person conducting the trial has the
13 full picture and the person's giving the decision has it,
14 that's what counts.

15 **MR. TALACH:** Well, let's use a little
16 example maybe to illustrate this.

17 A priest abuses two altar boys, all right?
18 That's the scenario I want to use. One goes to the Church
19 and the matter is dealt with secretly. The other altar boy
20 doesn't know that he could give his evidence, that he could
21 help out, that he could help give the full picture.

22 You see how that's a problem?

23 **REVEREND MORRISEY:** Could be.

24 **MR. TALACH:** In a civil setting, in a
25 secular world, that charge would be public. It would be in

1 the paper; you would agree with that?

2 REVEREND MORRISEY: It's going to depend.

3 Not every one is in the paper.

4 MR. TALACH: Oh, but these priest cases are.

5 REVEREND MORRISEY: Yeah, they like -- they
6 take pleasure with that.

7 MR. TALACH: Yes, "they take pleasure with
8 it", are your words.

9 That's going to be a much different outcome
10 than the secret trial, right?

11 REVEREND MORRISEY: What's going to be a
12 much different one?

13 MR. TALACH: The public case has more facts,
14 has two witnesses, two victims; is that fair?

15 REVEREND MORRISEY: It could.

16 MR. TALACH: Okay. And I know there is a
17 lot of assumptions implied in there, such as if the second
18 altar boy comes forward. But I do want to illustrate the
19 example to you.

20 Now, let's turn to the -- this '22 document,
21 I understand, and I'll try -- Father Morrissey, I'll try not
22 to dwell on these too much because I know you've been
23 through them -- it was updated or essentially enhanced in
24 1962?

25 REVEREND MORRISEY: Yes.

1 **MR. TALACH:** Do you have the full copy of --
2 the full Latin copy of that here?

3 **REVEREND MORRISEY:** Not here.

4 **MR. TALACH:** Okay.

5 I have the full Latin copy of this here and
6 you understand that at some point because of the world's
7 lack of -- because of the world's lack of skill in Latin,
8 for the English-speaking world this document was
9 unofficially translated?

10 **REVEREND MORRISEY:** Yes, it was unofficially
11 translated and not correctly translated.

12 **MR. TALACH:** Have you compared the two to
13 see the ---

14 **REVEREND MORRISEY:** Certain parts of it,
15 yes.

16 **MR. TALACH:** Okay. So you've seen the
17 unofficial translation?

18 **REVEREND MORRISEY:** I've seen it, yes. It's
19 on the website and it's -- like as people have put it on
20 the Internet.

21 **MR. TALACH:** Mr. Commissioner, what I'd like
22 to do is make the English copy an exhibit and also provide
23 Father Morrisey a copy of the Latin copy. And while I
24 appreciate it's not an official translation, for the
25 assistance of all us non-Latin speakers, when we go to

1 particular provisions it will probably make things easier.

2 He will have the Latin copy that he can
3 reference and he can correct any misinterpretations. I
4 just see it as the only functional way for us to get
5 through this without us all going down to St. Joseph's at
6 break to learn Latin this afternoon.

7 So that's how I'd like to proceed, and I'd
8 like to mark it Exhibit 633, subject to any submissions by
9 other counsel.

10 **THE COMMISSIONER:** Any comments from anyone?
11 Normally, we would file the Latin copy.

12 **MR. TALACH:** I do have four copies of the
13 Latin copy, but I didn't make 20 copies of it.

14 **THE COMMISSIONER:** No, well, why don't we
15 file a copy of the Latin copy and a copy of the English
16 copy and where a conflict arises we'll go down and refresh
17 ourselves on our Latin courses.

18 **MR. TALACH:** Thank you.

19 **THE COMMISSIONER:** So Exhibit 6 ---

20 **MR. TALACH:** Thirty-three (33), I believe.

21 **THE COMMISSIONER:** --- 633, Madam Clerk?

22 **MR. TALACH:** Is that right?

23 **THE COMMISSIONER:** All right. That will be
24 the Latin copy of -- we call it the ---

25 **MR. TALACH:** Father Morrisey, can you help

1 us out with ---

2 THE COMMISSIONER: --- instruction dated
3 1922.

4 REVEREND MORRISEY: Is it the '22 or '62?

5 MR. TALACH: Sixty-two ('62).

6 THE COMMISSIONER: Oh, '62, sorry.

7 MR. TALACH: Yes.

8 I do have a couple extra copies of the Latin
9 version for any counsel that want it.

10 THE COMMISSIONER: So Father Morrissey, just
11 as an aside -- oh, I'm sorry.

12 MR. ENGELMANN: I'm just wondering, sir,
13 when we've had a video and then a transcript of the video
14 afterwards sometimes we have marked things with an (a).

15 THE COMMISSIONER: Yes.

16 MR. ENGELMANN: And if there is a conflict,
17 obviously, the video trumps the transcript and in this
18 case, presumably, the Latin would trump anything
19 unofficial.

20 THE COMMISSIONER: Exactly.

21 MR. ENGELMANN: So perhaps the Latin copy
22 should be the full exhibit.

23 THE COMMISSIONER: Yes.

24 MR. ENGELMANN: And the unofficial -- the
25 English version an (a) of the full exhibit and then if

1 there is a discrepancy it would be the Latin that would
2 obviously override.

3 **THE COMMISSIONER:** Yes.

4 So as an aside, why is it that there is a
5 reluctance to translate this Latin document?

6 **REVEREND MORRISEY:** See, one of the problems
7 is the Church functions in 80 languages.

8 **THE COMMISSIONER:** Yes.

9 **REVEREND MORRISEY:** And if people translate
10 and you try to -- different translations can give different
11 interpretations.

12 **THE COMMISSIONER:** I understand that.

13 **REVEREND MORRISEY:** So they wanted to make
14 sure that everybody -- see don't forget. Like in the '20s
15 and '30s most people did a classical education with Latin
16 and Greek and had access to this.

17 **THE COMMISSIONER:** Yes. Right, okay. Thank
18 you.

19 So 633 (a) is the Latin version and 633 (b)
20 is the English translation.

21 --- **EXHIBIT NO./PIÈCE NO. P-633 (a):**

22 Copy of 1962 Vatican Instructions (*de modo*
23 *procedendi in causis sollicitationis*) -
24 Latin version

25 --- **EXHIBIT NO./PIÈCE NO. P-633 (b):**

1 Copy of 1962 Vatican Instructions (on the
2 matter of proceeding in cases of
3 solicitation) - English version

4 **MR. TALACH:** Father, has somebody got a copy
5 to you?

6 **REVEREND MORRISEY:** Yes.

7 **MR. TALACH:** Okay.

8 Just to refresh us on this document, again,
9 the same conditions that we saw on the '22 document exist,
10 to be in the secret archives, not to be published and went
11 out -- or is at least noted on the cover to have gone out
12 to the bishops of the world?

13 **REVEREND MORRISEY:** Yes.

14 **MR. TALACH:** And I understand it wasn't
15 officially published in the Act though, which would defeat
16 the secrecy clause because it would become public?

17 **REVEREND MORRISEY:** Exactly.

18 **MR. TALACH:** Okay. Now, your evidence
19 yesterday was that the '22 document did get to all the
20 bishops of the world?

21 **REVEREND MORRISEY:** Yes.

22 **MR. TALACH:** And how would that go out to
23 them in 1922? Any idea? I suspect it's some form of mail?

24 **REVEREND MORRISEY:** I presume by mail
25 because there weren't the other forms of communication.

1 **MR. TALACH:** Now, a bishop does attend Rome
2 every five or ten years? There's a requirement in the
3 Canons?

4 **REVEREND MORRISEY:** Five years.

5 **MR. TALACH:** Five years?

6 And there's obviously a possibility to get
7 updated material when they're physically in Rome?

8 **REVEREND MORRISEY:** Possible.

9 **MR. TALACH:** Now, do we know how the '62
10 document went out again physically or are we just making
11 assumptions as with the '22?

12 **REVEREND MORRISEY:** The '62 document, as I
13 said yesterday, was prepared just at the time the Vatican
14 II was being prepared, and Vatican II was opening just a
15 few weeks later and the bishops and everybody's interest
16 was focused on the council that was starting, and so
17 anything else just simply got lost in the ---

18 **MR. TALACH:** Lost in the shuffle?

19 **REVEREND MORRISEY:** --- in the shuffle, in
20 transmission.

21 **MR. TALACH:** So -- I mean, I just want to
22 explore that a little bit better. Where does your evidence
23 come from that the bishops of the world didn't get this
24 thing?

25 **REVEREND MORRISEY:** Because I was trying to

1 find copies when I was doing a -- I was involved in a case
2 and trying to find copies around the country.

3 **MR. TALACH:** When did you first become aware
4 of the document then?

5 **REVEREND MORRISEY:** Well, it must be 15
6 years ago, I guess, when I was doing this case. It was the
7 solicitation case. It wasn't a sexual abuse case.

8 **MR. TALACH:** The Canons say a bishop cannot
9 be ordained before his thirtieth birthday. Is that fair?

10 **REVEREND MORRISEY:** Yes.

11 **MR. TALACH:** And back in the '60s, I mean,
12 bishops were -- by the time you got to be a bishop, you're
13 at least in your late forties, is that fair?

14 **REVEREND MORRISEY:** Most of the time.

15 **MR. TALACH:** I mean, there would be the odd
16 streamer, right?

17 **REVEREND MORRISEY:** Yes.

18 **MR. TALACH:** Sorry, that's a military term.
19 I don't know if it applies.

20 There would be the odd person who had an
21 accelerated career?

22 **REVEREND MORRISEY:** Yes, some people were
23 named at 38 and 40, others were 70 when they were named.

24 **MR. TALACH:** So, if sort of the mean average
25 age of a bishop in the '60s was in those late forties, when

1 you discovered this document most of them would be elderly
2 men; some of them deceased?

3 **REVEREND MORRISEY:** When I discovered some
4 of them were deceased ---

5 **MR. TALACH:** No, when you discovered the '62
6 document, what I'm getting at ---

7 **REVEREND MORRISEY:** Yes.

8 **MR. TALACH:** --- did you go to any of these
9 bishops in '62 and say, "Do you ever remember this thing?"

10 **REVEREND MORRISEY:** Well, I tried to ask
11 around to find does anybody know about this.

12 **MR. TALACH:** And no answers?

13 **REVEREND MORRISEY:** Nobody knew.

14 **MR. TALACH:** Now, frankly, if the bishops
15 knew about it, they don't have to tell you, right?

16 **REVEREND MORRISEY:** Well, if they're asking
17 me to judge a case and they ask me to judge according to
18 the law, they're going to have to give me the material.

19 **MR. TALACH:** So the bishops that you dealt
20 with didn't have any experience?

21 **REVEREND MORRISEY:** No, no.

22 **MR. TALACH:** The bishops that were sitting
23 as bishops 15 years ago?

24 **REVEREND MORRISEY:** At that time.

25 **MR. TALACH:** Okay. And I just want to talk

1 about oaths quickly then. The bishops make a specific oath
2 of fidelity to the Vatican. Is that fair?

3 **REVEREND MORRISEY:** Yes, to the Pope, not to
4 the Vatican.

5 **MR. TALACH:** To the Pope.

6 And part of that oath is to safeguard the
7 Church from scandal?

8 **REVEREND MORRISEY:** Well, I don't know. I
9 don't have the text here in front of me.

10 **MR. TALACH:** And I don't have it either.
11 It's very hard to find. It must be secret.

12 **REVEREND MORRISEY:** No, no, it's published.
13 I have it at home.

14 **MR. TALACH:** Did you -- more recently, June
15 30th, '98, there was a new profession of faith and oath of
16 fidelity that came out for people teaching in seminaries.

17 **REVEREND MORRISEY:** Yes.

18 **MR. TALACH:** Did you have to take that oath?

19 **REVEREND MORRISEY:** No, because I was
20 already tenured and I was in. I had to take the different
21 profession of faith when I received my first appointment as
22 a teacher. That wasn't retroactive. It was the form to be
23 used after that date.

24 **MR. TALACH:** And the profession of faith
25 that you took back when you started teaching, is there a

1 clause in there where you're not to criticize the Church's
2 teachings on ---

3 REVEREND MORRISEY: No.

4 MR. TALACH: No?

5 REVEREND MORRISEY: No clause like that at
6 all.

7 MR. TALACH: Your hands are not tied?

8 REVEREND MORRISEY: Not for that, no.

9 MR. TALACH: Okay.

10 THE COMMISSIONER: Can we go back? So are
11 the instructions still issued in Latin?

12 REVEREND MORRISEY: Yes.

13 THE COMMISSIONER: And so let's assume a
14 bishop -- a new bishop and a young one, would he know
15 Latin?

16 REVEREND MORRISEY: That's part of the
17 problem right now.

18 THE COMMISSIONER: Yes.

19 REVEREND MORRISEY: And so very often there
20 are unofficial translations distributed.

21 THE COMMISSIONER: M'hm.

22 REVEREND MORRISEY: And that was one of the
23 works that I was doing when we were writing out the Code
24 was visiting the Conference of Bishops throughout the world
25 to get the responses to that, and most of them said "We

1 don't read Latin. We don't know what the text says."

2 **THE COMMISSIONER:** Okay.

3 **MR. TALACH:** This '62 document -- and I'm
4 hoping we can get through it without having to go to it,
5 but you would agree that it implies an oath of secrecy on
6 all the parties involved with the investigation and the
7 tribunal?

8 **REVEREND MORRISEY:** Well, whether you call
9 it oath of secrecy, but what's involved is that the whole
10 thing was subject to papal secrecy. So there is like a --
11 Formula A on page 27 is the oath that you take to carry out
12 your duties and to observe the secret of the Holy Office.

13 **MR. TALACH:** Father Morrisey, I'm going to
14 walk us through a bit of this, but obviously I'm going to
15 use the English translation, and tell me if you need any
16 time to find the corresponding section in Latin, but it
17 looks well organized.

18 In the English copy, which is Exhibit
19 633(b), I take it these are sections or are they norms, or
20 what are they?

21 **REVEREND MORRISEY:** Yes, paragraphs.

22 **MR. TALACH:** Paragraph 6 on the second page,
23 it states -- and I'll state it and then you tell me when
24 you're ready:

25 "Although, as a rule, a single judge,

1 by reason of its secrecy, is prescribed
2 for cases of this type, but of course
3 it's not forbidden."

4 You would agree that the number of people
5 judging the cases has been minimized here because of
6 secrecy?

7 **REVEREND MORRISEY:** Yes.

8 **MR. TALACH:** Okay.

9 **REVEREND MORRISEY:** The Code provides -- the
10 1917 Code provides that more difficult cases could be
11 entrusted to a panel of three or five or even seven judges.

12 **MR. TALACH:** But again, the default is one?

13 **REVEREND MORRISEY:** That's the minimum.

14 **MR. TALACH:** And turning the page at
15 paragraph 11, the big paragraph, I mean, the highlight of
16 it -- and I'll let you meander through it -- is it says
17 that essentially all these people involved were restrained
18 by a perpetual silence. It refers to an instruction of the
19 Holy Office February 20th, 1867. What is that document,
20 that instruction from, 1867?

21 **REVEREND MORRISEY:** I don't know that
22 document as such. It would be a question of going back
23 and looking it up.

24 **MR. TALACH:** And this is the paragraph that
25 imposes the secret of the Holy Office, correct?

1 REVEREND MORRISEY: Yes.

2 MR. TALACH: And to be more clear, that --
3 breaching that is automatic excommunication, essentially
4 only reversible by the Pope himself. So the second you
5 tell that, you're instantly excommunicated and only the
6 Pope can reverse it. Is that fair?

7 REVEREND MORRISEY: The second -- the moment
8 I break the secrecy of what I've learned in the testimony
9 and so on, then there's an excommunication there.

10 MR. TALACH: So it's pretty serious?

11 REVEREND MORRISEY: It's the highest form.

12 MR. TALACH: And if we go to the next page
13 at paragraph 13, so this is the third page -- fourth page
14 of Exhibit 633(b), paragraph 13, it says:

15 "The oath of keeping the secret must be
16 given in these cases also by the
17 accusers or those denouncing the priest
18 and the witnesses."

19 REVEREND MORRISEY: M'hm.

20 MR. TALACH: So the accuser is the victim,
21 right?

22 REVEREND MORRISEY: The accuser ---

23 MR. TALACH: Well, we call it victim; you
24 call it accuser.

25 REVEREND MORRISEY: Okay. Fine.

1 **MR. TALACH:** It's the same person depending
2 on the outcome, whether they're a victim or an accuser,
3 right?

4 **REVEREND MORRISEY:** No, not necessarily,
5 because the accuser could be somebody to whom the person
6 who was solicited, they spoke to and that person came
7 forward.

8 **MR. TALACH:** But the accuser and a witness
9 could also be the victim themselves?

10 **REVEREND MORRISEY:** No, the victim is not a
11 witness. The victim is going to be ---

12 **MR. TALACH:** If the victim is talking, I
13 guess they're the accuser, right?

14 **REVEREND MORRISEY:** Yes.

15 **MR. TALACH:** Okay. So in this case, in this
16 paragraph, even the victim has to take on this burden, this
17 secret?

18 **REVEREND MORRISEY:** The oath, yes.

19 **MR. TALACH:** Okay. Now, I know the public
20 position that's been put out is that this doesn't prevent
21 someone from going to the police, but I can't reconcile
22 that. Can you help me?

23 **REVEREND MORRISEY:** Well, it's going to
24 depend -- there's nothing prohibiting this.

25 **MR. TALACH:** But the second these talk to a

1 policeman about the process or what went on, poof, they're
2 excommunicated, right?

3 **REVEREND MORRISEY:** Well, it's just going to
4 depend on the time sequence. If they've already gone to
5 the police before, there's no problem.

6 **MR. TALACH:** Well, let's narrow it down
7 then. They go to the police after this whole Church
8 tribunal and everything has gone through and they've sworn
9 this oath, they're going to have a difficulty, right?

10 **REVEREND MORRISEY:** They would have been in
11 trouble, yes.

12 **MR. TALACH:** Okay. Now, turning to -- I
13 think we can move ahead to page -- well, we've talked about
14 the worst crime. I'll try and -- we'll move through that,
15 but at page 16 ---

16 **THE COMMISSIONER:** Excuse me, sir.

17 **MR. TALACH:** Sorry.

18 **THE COMMISSIONER:** Let's just go back. So
19 if someone were to go through the Church process and then
20 go and see the police, you said they'd be in trouble?

21 **REVEREND MORRISEY:** They'd be in trouble
22 with the Church, yes. In this document. But, again, I
23 know of no case naturally. I know of no case. I've never
24 had the experience where these worst crime cases came
25 forward. I just don't know of any.

1 **THE COMMISSIONER:** Okay. But what I'm
2 concerned about is this, is that then if someone were to go
3 and see a member of the Church, a priest, a bishop, and say
4 to him "Look it, I've gone through this whole process with
5 the Church and now I want to go see the police." That
6 person would be duty bound to tell them "If you do that you
7 will be excommunicated from the Church."

8 **REVEREND MORRISEY:** Yes, if they knew about
9 the existence of this document. You know, that's the
10 situation. Most people didn't know it existed.

11 **THE COMMISSIONER:** Well, it -- okay, but
12 it's been superseded now.

13 **REVEREND MORRISEY:** Now it's superseded,
14 yes. Now that's all changed now.

15 **THE COMMISSIONER:** As of?

16 **REVEREND MORRISEY:** Two-thousand and one
17 (2001).

18 **THE COMMISSIONER:** Right. But in the 1980s,
19 1990s, if somebody knew about this that's what a victim
20 would have been told.

21 **REVEREND MORRISEY:** Yes. If they had gone -
22 - not make a denunciation. These articles here apply if
23 there is a trial.

24 **THE COMMISSIONER:** Yes.

25 **REVEREND MORRISEY:** There's a difference

1 between making a denunciation ---

2 **THE COMMISSIONER:** Yes.

3 **REVEREND MORRISEY:** --- and then having a
4 full trial.

5 **REVEREND MORRISEY:** M'hm.

6 **MR. TALACH:** But this is the clear
7 legislative intent of the Vatican. Whether it was put into
8 effect or not they wanted an oath to secrecy on the
9 victims.

10 **REVEREND MORRISEY:** They wanted an oath of
11 secrecy of anyone involved in the case.

12 **MR. TALACH:** I was going to turn you -- is
13 that ---

14 **THE COMMISSIONER:** Go ahead.

15 **MR. TALACH:** I was going to turn you to page
16 16 in section 73 in the English copy. It might be easier
17 to find it that way.

18 Just for the record, Mr. Commissioner, I
19 should make it clear that for the purposes of saving trees
20 I did not include all of the appendices to this document.
21 It's simply the text of the instruction without the norms
22 and thorns essentially, the pleadings in a sense that are
23 attached. So it is not a complete 1962 document with the
24 attachments, just to be fair. The Latin copy is fully
25 complete.

1 **THE COMMISSIONER:** M'hm.

2 **MR. TALACH:** On paragraph 72, that links
3 this investigation, this secrecy procedure for the
4 solicitation cases-to-cases of the worst crime. That's
5 correct?

6 **REVEREND MORRISEY:** Yes.

7 **MR. TALACH:** And at 73, we find the specific
8 reference to these acts with minors or with youths and I
9 want to ask about that translation.

10 **REVEREND MORRISEY:** Yeah, youth is not
11 correct. In article 73 in the Latin it's those who have
12 not yet reached puberty.

13 **MR. TALACH:** What age were we operating on
14 that? Would there be a legislative age that people would
15 recognize would be puberty?

16 **REVEREND MORRISEY:** There was a presumption
17 ---

18 **MR. TALACH:** Yes.

19 **REVEREND MORRISEY:** --- of 14 and 12.

20 **MR. TALACH:** Okay. Different for each sex?

21 **REVEREND MORRISEY:** Yes.

22 **MR. TALACH:** Twelve (12) for the females?

23 **REVEREND MORRISEY:** Twelve (12) for the
24 females, 14 for the boys.

25 **MR. TALACH:** Okay. And that age as a youth,

1 just to go off track for a minute just to be clear on these
2 ages, puberty being 14 and 12, that operated until ---

3 REVEREND MORRISEY: Until the 1983 Code.

4 MR. TALACH: Until the 1983 Code. And then
5 it came up to 16 for both sexes?

6 REVEREND MORRISEY: And then at that moment
7 they dropped all reference to puberty.

8 MR. TALACH: Okay. And then it was 16 from
9 '83 until the 2001 letter that brought it up to 18?

10 REVEREND MORRISEY: To 18.

11 MR. TALACH: Okay. Sorry, is it 2001 or
12 2002 when ---

13 REVEREND MORRISEY: Two-thousand and one
14 (2001).

15 MR. TALACH: Okay. Now, the last part of
16 this, paragraph 73, says, you know:

17 "...perpetrated in any way by a cleric
18 or attempted by him with use of either
19 sex or with brute animals ..."

20 And it says in brackets "bestiality".

21 That's the English translation.

22 This is domesticated animals? Is that the
23 emphasize of brute animals?

24 REVEREND MORRISEY: Any animal. See, a
25 human being is an animal, is a rational animal. So a brute

1 animal is a dog, a cat, a sheep.

2 MR. TALACH: I didn't ask you that question
3 to embarrass you but ---

4 REVEREND MORRISEY: No, no.

5 MR. TALACH: --- it did feel embarrassing
6 discussing that, didn't it?

7 REVEREND MORRISEY: No, it doesn't bother --
8 no.

9 MR. TALACH: Okay.

10 REVEREND MORRISEY: What they were trying to
11 say here -- and that's why they put bestiality in brackets
12 to say that's what they meant.

13 THE COMMISSIONER: Hang on. Where's the
14 Latin? What does the strict literal translation of that --
15 let's see, where is 73?

16 REVEREND MORRISEY: And it's on page 23.

17 THE COMMISSIONER: Yes, thank you. Okay.

18 So can you just -- and I know that you're --
19 I don't know if you have been qualified as an interpreter
20 or translator or whatever the word is, but what does that
21 say? What do you say it means in the literal translation,
22 brute animal?

23 REVEREND MORRISEY: Well, yes. You see,
24 it's *brutus* -- it doesn't say *animalibus*. It's
25 *animantibus*.

1 **THE COMMISSIONER:** M'hm.

2 **REVEREND MORRISEY:** So brute creatures.

3 **THE COMMISSIONER:** Okay.

4 **REVEREND MORRISEY:** And that's then why they
5 use the word bestiality.

6 **MR. TALACH:** I just wanted to focus on that
7 to emphasize how embarrassing that would be for the Church
8 for that information to get out into the public, right?

9 **REVEREND MORRISEY:** Oh, for any person.

10 **MR. TALACH:** I agree. Any institution
11 wouldn't want it be known that their employees are in the
12 barn, right?

13 So, I mean, do you see how someone could
14 connect why these crimes are under secrecy because of the
15 scandal they can cause.

16 **REVEREND MORRISEY:** Because of the harm to
17 reputation of the persons also.

18 **THE COMMISSIONER:** To the persons?

19 **REVEREND MORRISEY:** To the person whose
20 accused.

21 **THE COMMISSIONER:** To the accused, yeah.

22 **MR. TALACH:** But if the priest was in the
23 barn there would be no reputation to protect?

24 **REVEREND MORRISEY:** That's going to depend.
25 The animals are not going to speak.

1 **MR. TALACH:** Okay. Let's leave that subject
2 and move on to ---

3 **THE COMMISSIONER:** I think we should.

4 **MR. TALACH:** Canon law like secrecy, that's
5 what I call this. So let's see if we can come to a
6 conclusion on this.

7 Would you agree if I was to say that in
8 canon law we can note, let's call it an excessive
9 preoccupation with secrecy, and that is based at times on
10 the principle of confidentiality?

11 **REVEREND MORRISEY:** I could say yes. And
12 that's one of the major differences. Like, if I'm studying
13 canon law in a common law context as distinct from studying
14 it in countries where we have like we call the civil law,
15 the approach is completely different. The common law does
16 not like things in secrecy.

17 **MR. TALACH:** If I may make another exhibit,
18 Mr. Commissioner, which will be Exhibit P-634. It's an
19 article of Canon Law meets Civil Law authored by Father
20 Morrisey. I take it he would be familiar with it.

21 **THE COMMISSIONER:** All right.

22 **---EXHIBIT NO./ PIÈCE NO P-634:**

23 Studia canonica article 201C Canon Law
24 meets Civil Law 201D by Rev. F. G.
25 Morrisey 2013 Dated 1997

1 **MR. TALACH:** Do you recall writing that
2 article?

3 **REVEREND MORRISEY:** I do. It was a paper
4 given for the Court of Appeals for the State of New York
5 and Eastern meeting of judges and lawyers there.

6 **MR. TALACH:** While we're handing that out,
7 do you agree with me that that '62 document, the
8 circumstances around it, is an example of this
9 preoccupation with secrecy?

10 **REVEREND MORRISEY:** It certainly -- it's an
11 exaggerated document in today's context. There's no doubt
12 about that.

13 **MR. TALACH:** But my question is, is it an
14 example of this preoccupation?

15 **REVEREND MORRISEY:** Well, whether it's a
16 preoccupation, that was the way things were done in those,
17 you know, 40 years ago.

18 **THE COMMISSIONER:** In fairness, I think you
19 said yesterday it wasn't a proud moment or ---

20 **REVEREND MORRISEY:** It wasn't our proudest
21 moment.

22 **THE COMMISSIONER:** I think that's what you
23 said.

24 **MR. TALACH:** When you have that in front of
25 you, Father, if you could turn to page 193. And to set the

1 context, this is a comparison between canon law and civil
2 law at times; correct, this article?

3 **REVEREND MORRISEY:** Yes, it's -- and the way
4 in which canon law has been used in the secular courts in
5 North America.

6 **MR. TALACH:** At page 193, and I had borrowed
7 from your words, under subparagraph (e) it says:

8 "The Common Law does not favour acts
9 carried out in secret. Yet in canon
10 law we note an excessive preoccupation
11 with secrecy based at times on the
12 principle of confidentiality."

13 You then go on in footnote 21 to use the
14 1962 document as an example of that. Is that fair?

15 **REVEREND MORRISEY:** Yes.

16 **MR. TALACH:** Okay. And when you wrote this,
17 you seemed frustrated about the secrecy because at the
18 bottom of your footnote you said:

19 "If a policy cannot be commented on, it
20 is difficult to see how it can be
21 taught and explained to those entrusted
22 with its eventual implementation."

23 **REVEREND MORRISEY:** Sure, and I took at
24 chance in that because it was only in 2001 that it was
25 publicly mentioned that the law came -- that the document

1 existed.

2 **MR. TALACH:** That was my next question. You
3 didn't get a knock on the door late at night because of
4 this article?

5 **REVEREND MORRISEY:** Not yet.

6 **MR. TALACH:** Okay.

7 **THE COMMISSIONER:** But technically,
8 technically you were in breach and you could have risked
9 excommunication?

10 **REVEREND MORRISEY:** No, not excommunication
11 because it wasn't a case.

12 **THE COMMISSIONER:** Right.

13 **REVEREND MORRISEY:** It wasn't an actual
14 case. It was just the document.

15 **THE COMMISSIONER:** Right.

16 **REVEREND MORRISEY:** And I was protesting at
17 that time, I was protesting against the fact that these
18 documents are secret and I was trying to judge a case and
19 judge on laws that I couldn't ---

20 **MR. TALACH:** Now, switching gears here
21 again. Church law is -- I mean, in this comparison between
22 civil and canonical, Church law is based more on a search
23 for the truth; is that fair?

24 **REVEREND MORRISEY:** Yes.

25 **MR. TALACH:** And I think you said civil law

1 is based on a search for justice.

2 REVEREND MORRISEY: Well, you have the
3 principle, justice before truth, that you use a lot in
4 common law, criminal cases.

5 MR. TALACH: I had to actually use the hotel
6 Bible for this one but that premise, that search for the
7 truth is based on John viii.32 where it says:

8 "And you shall know the truth and the
9 truth shall make you free."

10 REVEREND MORRISEY: That's part of it, yes.

11 MR. TALACH: Okay.

12 Now, I would think that -- and you can tell
13 me whether I'm right or wrong -- the Church would be
14 equally interested in other people getting to the bottom of
15 matters; of the police and the civil courts and things
16 knowing the truth, right?

17 REVEREND MORRISEY: That's going to depend
18 on the issue. The police have nothing to do with a
19 person's conscience, for instance.

20 MR. TALACH: But this issue of conscience,
21 this issue of if it has something to do with someone's
22 conscience then there is going to be all these restrictions
23 on what they can tell people outside the Church, right?

24 REVEREND MORRISEY: There were at the time.

25 MR. TALACH: You would agree there could be

1 cases of sexual assault that have nothing to do with
2 conscience, right?

3 **REVEREND MORRISEY:** No, because you're
4 dealing with a very serious sin there. And sin is a matter
5 of conscience.

6 **MR. TALACH:** We're going to get to some
7 other offences where there isn't that secrecy so I'll leave
8 that.

9 If we go -- so we have kind of established
10 that the Church is interested in this truth, or that's the
11 purpose of its law. I want to take you to Tab 13 again,
12 Exhibit 632, which is the From Pain to Hope. That's
13 Exhibit 632, Tab 13, page 49, and this will take us into
14 the recommendations.

15 Now, as you are looking for this, I want you
16 to look at this in the light of this issue of the Church
17 searching for the truth. And I'm going to read
18 Recommendation 16 which says:

19 "Provide to the extent possible,
20 depending on the prevailing laws, the
21 maximum confidentiality..."

22 And it's bolded:

23 "...for all written documents relating
24 to allegations of sexual abuse by a
25 priest."

1 Again, I just can't reconcile that. I take
2 it that's again this issue of conscience?

3 **REVEREND MORRISEY:** Oh, part of it, yes.

4 **MR. TALACH:** Okay.

5 **REVEREND MORRISEY:** See, you have the
6 situation, the lawyers in these reporting laws; they
7 accepted themselves from having to make any announcement,
8 to having to go to the police or anything like that.
9 They're dealing with the same type of people and they're
10 all exempted.

11 So you have to look at it both ways.

12 **MR. TALACH:** Lawyers might not be a group of
13 people who say they're always about finding the truth,
14 though. Now ---

15 **THE COMMISSIONER:** In fairness, though,
16 lawyers are a group within the circle. These measures of
17 confidentiality cloak the whole procedure.

18 **REVEREND MORRISEY:** The whole procedure.

19 **THE COMMISSIONER:** So in fairness, do you
20 think there is a difference there?

21 **REVEREND MORRISEY:** Well, it's just -- it's
22 the principle. Again, I'm not trying to justify all these
23 laws. It's just more what they were

24 **THE COMMISSIONER:** Right. No, no, I
25 understand that. I understand it, but you were going back

1 and saying it's the same principle and, yet, I think in
2 fairness to Mr. Talach he's talking about cloaking the
3 whole system as opposed to a profession.

4 **REVEREND MORRISEY:** Certainly the system --
5 the system as such; I have no problem with that at all.

6 **THE COMMISSIONER:** Okay.

7 **MR. TALACH:** This page 49 goes on to say --
8 well, let me ask you some questions before we get to that.

9 I mean, the purpose of this internal Church
10 process, be it as per the regulations -- as per the
11 recommendations of From Pain to Hope or as per the Canons,
12 the purpose is internal purpose, right? It's to get to the
13 bottom of the matter within the Church; is that fair?

14 **REVEREND MORRISEY:** Yes.

15 **MR. TALACH:** Okay. It has nothing -- it
16 really doesn't have anything to do with what could go on
17 outside in the secular world?

18 **REVEREND MORRISEY:** Well, we have no say
19 over that.

20 **MR. TALACH:** Okay. So I mean, the
21 predominant purpose of these documents and these interviews
22 and this process that's done within the Church is for the
23 Church's internal use?

24 **REVEREND MORRISEY:** Yes.

25 **MR. TALACH:** Okay.

1 Back to page 49 it says, though:

2 "The document should be recorded as
3 having been prepared for the benefit
4 and assistance of the Diocesan
5 Council."

6 I mean, we just kind of went over that these
7 documents are not for the Diocesan Council. The
8 fundamental purpose is for the Church. Why are they
9 telling -- do you know why they are telling people to write
10 that on the documents?

11 **REVEREND MORRISEY:** Yes, because in Canada
12 they decided that these documents were not privileged and
13 anybody could come in with a search warrant and take them.

14 **MR. TALACH:** So even though you agree with
15 me they are not for the Diocesan Council, the Church has
16 decided that they write that on there and say that; it
17 gives that privilege back to it?

18 **REVEREND MORRISEY:** Well, until it's
19 challenged.

20 **MR. TALACH:** Well, I'm challenging it now.
21 It doesn't sound proper.

22 **REVEREND MORRISEY:** Well, that's your
23 opinion, yes.

24 **MR. TALACH:** Have you ever heard of
25 documents from a diocese being sent to the Apostolic

1 Pronuncio in Ottawa so that they could be protected under
2 the immunity there?

3 REVEREND MORRISEY: That used to be the
4 policy.

5 MR. TALACH: And I take it that would be so
6 that search warrants and orders of the court couldn't get
7 at them?

8 REVEREND MORRISEY: That was -- the
9 documents were sent to Rome. Now, you see, that no longer
10 exists because all the cases go directly to Rome as of
11 2001.

12 MR. TALACH: But I'm not talking about
13 documents that had to go Rome. I'm talking about moving
14 documents to shelter them under an embassy. Have you ever
15 heard of that?

16 REVEREND MORRISEY: Sure.

17 MR. TALACH: Okay.

18 Does that not seem to be troubling?

19 REVEREND MORRISEY: No.

20 MR. TALACH: Is it not -- I mean, is it
21 consistent with From Pain to Hope?

22 REVEREND MORRISEY: Well, first of all, I
23 don't know if any of those cases that happened after From
24 Pain to Hope came out.

25 MR. TALACH: Okay.

1 Yesterday, we talked about -- and I'm trying
2 to save time by not taking us to the quote -- but you would
3 agree there's moments when the Church has information that
4 the secular world doesn't, right?

5 **REVEREND MORRISEY:** Yes.

6 **MR. TALACH:** Okay. Why doesn't the Church
7 give it to the secular world?

8 **REVEREND MORRISEY:** They didn't ask for it.

9 **MR. TALACH:** Let's turn to the delicts, the
10 crimes, and I just want to focus on how they are classified
11 under the 1917 Code. So if you need to make reference of
12 it I take it you have a 1917 Code there?

13 **REVEREND MORRISEY:** I do.

14 **MR. TALACH:** I don't know if you'll need to
15 go it, Father, but would you agree that the classifications
16 of these crimes are based on whether they are public
17 knowledge or not? Some are public and some are considered
18 occult that are non-public?

19 **REVEREND MORRISEY:** Yes.

20 **MR. TALACH:** Okay. So the classification of
21 the misconduct sections is based on whether it's known or
22 it's not known to the public; is that fair?

23 **REVEREND MORRISEY:** In most instances, yes.

24 **MR. TALACH:** Confidentiality clauses; are
25 you aware of confidentiality clauses in civil lawsuits?

1 REVEREND MORRISEY: Yes.

2 MR. TALACH: Okay. And many -- these are
3 requested by the Church, is your understanding?

4 REVEREND MORRISEY: Or sometimes by the
5 parties.

6 MR. TALACH: Okay. But when they are
7 requested by the Church, why are they requested by the
8 Church?

9 REVEREND MORRISEY: It could be for many
10 reasons. It could be to avoid setting a precedent. It
11 could be in relation to the persons involved. It could be
12 -- see lots of times, don't forget, the parties did not
13 want to go to -- near the courts.

14 MR. TALACH: But would you agree that it may
15 also be because the Church, consistent with its theme of
16 secrecy, doesn't want this information to get out?

17 REVEREND MORRISEY: That might be a bit
18 strong but it's in that line.

19 MR. TALACH: Let's talk about the end of
20 secrecy. In your opinion what does public awareness of
21 sexual abuse do? In your experience and what you've seen,
22 what does the public awareness do to the issue?

23 REVEREND MORRISEY: It's going to depend on
24 how the public becomes aware and what they become aware of
25 and what's presented. I mean, if you present it in a --

1 you know, like a tabloid form of first page of some of the
2 papers it's completely different from presenting facts.

3 **MR. TALACH:** Would you agree, though, that
4 public awareness or public exposure tends to make other
5 victims come forward?

6 **REVEREND MORRISEY:** Well, that's certainly
7 been one of the consequences of it.

8 **MR. TALACH:** Okay. And would you agree with
9 me that learning of these other cases better informs and
10 equips the Church to deal with it?

11 **REVEREND MORRISEY:** The Church has certainly
12 learned an awful lot in the last 20 years.

13 **MR. TALACH:** And you can't -- on broad
14 principles, you really can't tackle a problem till you know
15 the size of it, right?

16 **REVEREND MORRISEY:** The more facts you have
17 the better your information is.

18 **MR. TALACH:** So you would agree with me that
19 the public disclosure, the public exposure has helped the
20 mechanism of dealing with this problem?

21 **REVEREND MORRISEY:** The public exposure has
22 led to a reexamination of the way in which the legislation
23 is applied.

24 **THE COMMISSIONER:** Legislation you mean?

25 **REVEREND MORRISEY:** The Church legislation.

1 **THE COMMISSIONER:** Yeah.

2 **MR. TALACH:** Now, switching gears to the
3 Church's view on sexual abuse of minors and how they handle
4 it, with some specific snapshots in time, would you agree
5 that for most of the 20th century, sexual abuse of a minor
6 by a child (sic), it was seen as a moral failing of the
7 priest?

8 **REVEREND MORRISEY:** It was certainly that.
9 I didn't say it was just that.

10 **MR. TALACH:** But the realization there was a
11 medical or a mental illness aspect of this didn't come into
12 the picture until the '80s. Right?

13 **REVEREND MORRISEY:** Well, at least in the
14 second half of the 20th century; because you had some
15 studies going on, the Johns Hopkins University in
16 Baltimore, and Atlanta, and all those places before then.

17 **MR. TALACH:** But how bishops in that first
18 three-quarters of the 20th century, how would they view it?
19 Would they view it as a moral failing, go pray harder,
20 Father? Would that be sort of the outlook?

21 **REVEREND MORRISEY:** No because you had -- I
22 mean, that's part of it. But there's much more to it than
23 that. I mean that's when the -- like the Servants of the
24 Paracletes, which is a religious order founded for the
25 rehabilitation of priests in the '40s, that they opened

1 centres exclusively for -- well, not exclusively --
2 primarily for this, to help address this with, you know,
3 from a professional point of view.

4 **MR. TALACH:** But you would agree in the
5 recent time, we found out about all kinds of historical
6 cases where priests were transferred without treatment. Is
7 that fair?

8 **REVEREND MORRISEY:** Oh, yeah. No, that's a
9 different issue now, yeah.

10 **MR. TALACH:** Okay. Well, you would agree
11 with that?

12 **REVEREND MORRISEY:** I agree the priests were
13 transferred, yes, without treatment.

14 **MR. TALACH:** The only reasonable explanation
15 can be that the bishop didn't appreciate it was more than a
16 moral failing. Is that fair?

17 The bishop wouldn't transfer someone without
18 treatment to unsuspecting parishioners, if he thought there
19 was a mental illness?

20 **REVEREND MORRISEY:** Well, unfortunately, I
21 think that's happened.

22 **MR. TALACH:** Now, you would agree that there
23 is now an awareness? That this is a mental -- that there
24 is, in some of these cases, issues of pedophilia and other
25 conditions, which are a true mental illness. Right?

1 **REVEREND MORRISEY:** Well, I'm not a medical
2 doctor to know whether it's a mental illness or not. I
3 recognize that there are psychological and psychiatric
4 issues involved here, but that's a completely different
5 perspective.

6 **MR. TALACH:** But from a canonical, from a
7 judge or a lawyer within the Church, how does the law view
8 this? Has it been viewed now as a condition which
9 alleviates imputability?

10 **REVEREND MORRISEY:** It can, yes, and that's
11 why we have to bring in experts in that area.

12 **MR. TALACH:** And that impact on imputability
13 is one of the reasons why you and other canonists are
14 saying "Don't bother with these tribunals. The charges
15 won't stick". Is that fair?

16 **REVEREND MORRISEY:** Yes.

17 **MR. TALACH:** Okay. So in a sense, since it
18 has become recognized in canon law as a mental illness, it
19 has become in a form a defence to the most severe
20 penalties?

21 **REVEREND MORRISEY:** A defence, did you say,
22 or a defect?

23 **MR. TALACH:** A defence to the most severe
24 penalties?

25 **REVEREND MORRISEY:** It's been -- it's a

1 defence to a punishment. It's not a defence to the most
2 serious crimes, and that's why in 2002, the Pope made a
3 change again and allowed these administrative dismissals
4 from the clerical state.

5 **MR. TALACH:** And that's because up until
6 2002, if a priest said he had a mental illness that was
7 part of the misconduct, he could never be dismissed from
8 the clerical state?

9 **REVEREND MORRISEY:** No, I'm not going to say
10 that. I'm just saying that there were different
11 procedures; that he, in 2002, allowed an administrative
12 procedure for dismissal.

13 **MR. TALACH:** But I am asking you prior to
14 2002, is it not true that you could not dismiss a priest
15 from the clerical state if his imputability was impacted by
16 a mental disorder?

17 **REVEREND MORRISEY:** No, I don't agree with
18 that at all. The bishop couldn't do it. You had to go to
19 the Vatican. The Vatican could do it.

20 **MR. TALACH:** Well, that's what I'm getting
21 at. The bishop couldn't do it.

22 **REVEREND MORRISEY:** The bishop couldn't but
23 the Vatican could.

24 **MR. TALACH:** Okay. And now, the Vatican is
25 still the only person that can do an administrative route?

1 **REVEREND MORRISEY:** Administratively, yes.

2 **MR. TALACH:** Let's look at this
3 administrative versus what I'm going to call penal or
4 prosecution within the Church.

5 A bishop has two routes he can choose the
6 penal process or the administrative route ---

7 **THE COMMISSIONER:** As to when though? What
8 period of time?

9 **MR. TALACH:** Sorry, Mr. Commissioner, let's
10 talk about pre-2002. Well, let's take it back a bit, pre-
11 1983 Code. There was two processes?

12 **REVEREND MORRISEY:** Well, there were really
13 three, pre-1983, because there was the process with the
14 informed conscience that I mentioned yesterday too, which
15 really wasn't a process.

16 **MR. TALACH:** So pre-'83, the bishop could --
17 he had this carte blanche, he had this informed conscience
18 where he could kind of do anything. Right?

19 **REVEREND MORRISEY:** Yes.

20 **MR. TALACH:** So the pre-'83 period is the
21 period where the bishop is most empowered to deal with
22 these cases. Correct?

23 **REVEREND MORRISEY:** Yes, if he used his
24 power.

25 **MR. TALACH:** And exactly, if you look back

1 and agree with me here, pre-1983 now is where we've seen
2 the problem was mishandled the most by the Church. Is that
3 fair?

4 **REVEREND MORRISEY:** I'm not going to say
5 that, but it's possible.

6 **MR. TALACH:** But at a time where they had
7 the most powers, they weren't applying it.

8 **REVEREND MORRISEY:** Well, they weren't aware
9 of a lot of this.

10 **MR. TALACH:** But when they were, they
11 weren't applying their powers?

12 **REVEREND MORRISEY:** Well, I'm not sure of
13 that. I mean, priests were removed; priests were
14 disciplined; priests were -- the only thing is, in those
15 days, it was much rarer that a priest would be formally
16 dismissed from -- but there are canons in the Code that
17 provided that if he did that, he was to be formally
18 dismissed.

19 **MR. TALACH:** If the bishop, pre-1983,
20 learned of a case of clergy sexual abuse that would have
21 fit under Canon 2359, which is the sexual abuse of a minor,
22 did he have a choice of his three options or did he have to
23 do an ecclesiastical tribunal?

24 **REVEREND MORRISEY:** It's going to depend
25 what he wanted to do. If he wanted to have the priest

1 dismissed from the clerical state, he had to have a full
2 formal penal trial. If he just wished to restrict the
3 priest's faculties to have him removed from any type of
4 ministry, he did not need that formal type of trial. And
5 that was what we called administrative.

6 **MR. TALACH:** You've said or -- you've agreed
7 that the reality is few dioceses conducted these canonical
8 penal processes.

9 **REVEREND MORRISEY:** Yes.

10 **MR. TALACH:** Okay. I want to take you to
11 2354 in the '17 Code -- 2354 in the '17 Code -- Mr.
12 Commissioner I'm just going to read it onto the record,
13 subject to the witness' agreement with the translation.
14 Canon 2359, I guess is the term. I do not believe it's in
15 the collection provided by ---

16 **MR. ENGELMANN:** Yes, it is.

17 **MR. TALACH:** It is? Oh, good, okay.

18 **MR. ENGELMANN:** It's at Tab 26, Exhibit 652.

19 **MR. TALACH:** Okay.

20 **THE COMMISSIONER:** Thank you, Mr. Engelmann.
21 And after we finish this line of questioning, we will take
22 the morning break.

23 **MR. TALACH:** And I will attempt on a break,
24 Mr. Commissioner, to try and narrow down the remaining
25 questions.

1 **THE COMMISSIONER:** No, that's fine. So I'm
2 sorry? Where are we? Canon number 23---

3 **MR. TALACH:** Canon number 2354 in the 1917
4 Code.

5 **THE COMMISSIONER:** Yes?

6 **MR. TALACH:** And I am going to have -- you
7 would agree that the section 1, or the paragraph 1 of that,
8 Father, has to do -- mentions the rape of a youth of the
9 opposite sex?

10 **REVEREND MORRISEY:** Yes.

11 **MR. TALACH:** Okay. And the Commissioner
12 asked you yesterday really it applied to both sexes?

13 **REVEREND MORRISEY:** Well, the second
14 paragraph -- the second paragraph did, yes.

15 **MR. TALACH:** Okay. And that second
16 paragraph says that if a cleric commits one of the delicts
17 mentioned in paragraph 1 or subsection 1,

18 "... he shall be punished by an
19 ecclesiastical tribunal according to
20 the varying gravity of the fault with
21 penances, censures, privation of office
22 and dignity and, if it seems necessary,
23 also a disposition ..."

24 Which I take it is dismissal, laicization.
25 Correct?

1 REVEREND MORRISEY: Yes.

2 MR. TALACH: It says "shall".

3 REVEREND MORRISEY: M'hm.

4 MR. TALACH: How did the bishops get out of
5 not applying this canon?

6 REVEREND MORRISEY: Then you would -- go to
7 2357.

8 THE COMMISSIONER: One or two, Father?

9 REVEREND MORRISEY: Sort of ---

10 THE COMMISSIONER: Both?

11 REVEREND MORRISEY: --- both.

12 THE COMMISSIONER: Yes.

13 MR. TALACH: In 2357?

14 REVEREND MORRISEY: And 2358, 2359. They
15 all go together. See the section is on offences against
16 the obligations; against life, freedom, property, good
17 morals and good reputation.

18 MR. TALACH: Right. But is there something
19 in there that gives an exemption to that strongly worded
20 "shall" in 2354?

21 REVEREND MORRISEY: It wasn't done.

22 MR. TALACH: It wasn't done. Okay.

23 Let's -- and that's -- we can take the break
24 at this time.

25 THE COMMISSIONER: Thank you.

1 **MR. TALACH:** Okay.

2 **THE COMMISSIONER:** We will take the break.

3 **THE REGISTRAR:** Order; all rise. À l'ordre;
4 veuillez vous lever.

5 The hearing will resume at 11:15.

6 --- Upon recessing at 11:00 a.m./

7 L'audience est suspendue à 11h00

8 --- Upon resuming at 11:19 a.m./

9 L'audience est reprise à 11h19

10 **THE REGISTRAR:** The hearing is now resumed.

11 Please be seated. Veuillez vous asseoir.

12 **THE COMMISSIONER:** Go ahead sir.

13 **FATHER FRANCIS G. MORRISEY, Resumed/Sous le même serment:**

14 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

15 **TALACH (cont'd/suite):**

16 **MR. TALACH:** Father Morrisey, I just want to
17 see if you recall writing this, and we will go to the
18 document if we have to.

19 In your article addressing the issue of
20 clergy abuse, you state:

21 "First accusations are generally met
22 with denial. Later on when it became
23 evident that there was indeed a
24 foundation to at least some of the
25 accusations grudgingly steps were taken

1 to address individual cases."

2 Does that sound accurate?

3 **REVEREND MORRISEY:** That's what I said.

4 **MR. TALACH:** And you said:

5 "Church authorities were obviously
6 reluctant to recognize the extent of
7 such deviant behaviour. It just did
8 not seem possible that it was
9 widespread."

10 **MR. ENGELMANN:** Excuse me, in fairness to
11 the witness, perhaps we could go to the tab so that the
12 witness could follow and make sure that is what he said.

13 **THE COMMISSIONER:** Right.

14 **MR. ENGELMANN:** We do have the document.

15 **THE COMMISSIONER:** Sure.

16 **MR. TALACH:** It's at Tab 7 of Exhibit 632
17 and it commences at page 404. So again, that's Exhibit
18 632, the document brief of Father Morrissey, Tab 7, page
19 404.

20 I apologize, Mr. Commissioner, I was just
21 trying to expedite the process.

22 **THE COMMISSIONER:** Oh well, let's go to the
23 tabs and see where we go. All right. So page 404?

24 **MR. TALACH:** Yes. And now I'm going to
25 start at the middle portion of that. It says "Church

1 authorities," the second paragraph.

2 Father Morrisey, you went on to say:

3 "Church authorities were obviously
4 reluctant to recognize the extent of
5 such deviant behaviour. It just did
6 not seem possible that it was
7 widespread, rather, that it was
8 considered limited to isolated
9 incidents. In some circles it was even
10 considered that incidents of this type
11 were reserved to the English-speaking
12 countries. Although, it soon became
13 evident that such was not the case."

14 Would you agree that now there is an
15 understanding in the Church that this is a widespread
16 global problem?

17 **REVEREND MORRISEY:** It's a widespread global
18 phenomenon, yes. It's not limited to the Anglo-Saxon
19 world.

20 **MR. TALACH:** And what about the number of
21 priests involved? I've heard words like "tiny fraction" or
22 "not numerous". What is your understanding of the number
23 of priests that are involved?

24 **REVEREND MORRISEY:** Well, what the Doctrine
25 of Faith has said that it has 1,600 cases and that's --

1 that would not be one percent of the priests in the world.
2 And of those 1,600 cases, a number of those priests are
3 already deceased, and so it's a different type of
4 procedure. I'm not saying they're the only cases.

5 **MR. TALACH:** It's a hard statistic to
6 determine because the statistics just aren't there, right?

7 **REVEREND MORRISEY:** They're not there.

8 **MR. TALACH:** And the CCCB doesn't have any
9 statistics on this; is that fair?

10 **REVEREND MORRISEY:** No, and that's why I
11 said yesterday I'm dealing with anecdotal evidence.

12 **MR. TALACH:** Turning to treatment, you
13 talked about the canonical obligation or the canonical
14 issues surrounding treatment; correct?

15 **REVEREND MORRISEY:** Yes.

16 **MR. TALACH:** That some people interpret that
17 as part of their obligations to the priest, the bishop or
18 the diocese must fund treatment; correct?

19 **REVEREND MORRISEY:** Yes, especially if the
20 bishop mandates that the priest go and the priest accepts
21 to go, because the bishop can't force him, then the bishop
22 should be picking up the tab for this.

23 **MR. TALACH:** Now, I'm talking about
24 treatment with an eye to helping us with the size of this
25 problem. There's a number of treatment centres that you're

1 aware of; correct?

2 REVEREND MORRISEY: Yes.

3 MR. TALACH: In Ontario there's Southdown in
4 Aurora?

5 REVEREND MORRISEY: Yes.

6 MR. TALACH: Michigan has Guest House?

7 REVEREND MORRISEY: Yes. Guest House is for
8 alcohol problems.

9 MR. TALACH: They don't deal with any sexual
10 ---

11 REVEREND MORRISEY: No, no, that's not --
12 perhaps incidentally, but its focus is alcohol and chemical
13 dependency.

14 MR. TALACH: Would you agree that a lot of
15 these cases involve alcohol?

16 REVEREND MORRISEY: I mentioned that either
17 in this article or one of the other ones.

18 MR. TALACH: Okay. In Maryland there's
19 Saint Luke's Institute?

20 REVEREND MORRISEY: Yes.

21 MR. TALACH: New Mexico has Jasmine Springs?

22 REVEREND MORRISEY: Jemez Springs.

23 MR. TALACH: Okay. And just outside Boston
24 there's the House of Affirmation?

25 REVEREND MORRISEY: No, that's closed.

1 **MR. TALACH:** Is that closed?

2 **REVEREND MORRISEY:** Yes.

3 **MR. TALACH:** Okay. These centres are
4 exclusive to the religious, clergy, religious, those type
5 of people?

6 **REVEREND MORRISEY:** Yes.

7 **MR. TALACH:** And I think you mentioned that
8 there's some waiting lists at some of these facilities?

9 **REVEREND MORRISEY:** Yes. There are others
10 besides the ones you mentioned.

11 **THE COMMISSIONER:** There's some in Quebec as
12 well?

13 **REVEREND MORRISEY:** No, there's no place for
14 priests in Quebec. It's very interesting.

15 **THE COMMISSIONER:** I'm dating myself, but a
16 few decades back I thought there were.

17 **REVEREND MORRISEY:** There were places --
18 there was a place in Montreal, but it was not specialized
19 in these types of issues. It was just -- it was what they
20 called a house for the reformation of priests.

21 **MR. TALACH:** So in addition to these
22 treatment centres, there's also places for spiritual
23 retreat and those type of more individual recovery?

24 **REVEREND MORRISEY:** Yes, but now a retreat
25 is not a recovery issue.

1 **MR. TALACH:** I understand. But in the past,
2 would you agree some bishops would just send these priests
3 on a retreat?

4 **REVEREND MORRISEY:** Yes, and hope that that
5 would work.

6 **MR. TALACH:** Okay. Let's talk about the
7 reporting requirements, and just briefly because I know my
8 friend with the Children's Aid Society is going to be much
9 more able in this area. But you understand there's a
10 reporting requirement in Ontario that if there's
11 information learned of a person or of a child, which is
12 someone under 16, being sexually abused, it must be
13 reported?

14 **REVEREND MORRISEY:** Yes, if the child is
15 under 16, yes.

16 **MR. TALACH:** And that's my question. Does
17 the Church interpret it that the child is under 16 at the
18 time they learn of the report?

19 **REVEREND MORRISEY:** Yes.

20 **MR. TALACH:** So ---

21 **REVEREND MORRISEY:** Yes, that the child --
22 at the time they become aware of it, the child is under 16.

23 **MR. TALACH:** So if a child was abused at 13,
24 let's say, but he doesn't come forward until he's 17, the
25 Church does not report?

1 **REVEREND MORRISEY:** There's no obligation to
2 report under the law.

3 **MR. TALACH:** That's a legal obligation, but
4 does the Church go outside the legal obligation and report
5 it regardless?

6 **REVEREND MORRISEY:** Well, that's what I said
7 yesterday. Some bishops in the United States made the
8 commitment that they would refer all cases to the District
9 Attorney or to some similar authority.

10 **MR. TALACH:** No commitment like that in
11 Canada?

12 **REVEREND MORRISEY:** I'm not aware of it.

13 **MR. TALACH:** Okay. And the timing of the
14 duty to report, I believe it's your position that before
15 the duty to report, the Church has to do their preliminary
16 investigation to figure out if this is worthy of reporting.
17 Is that true?

18 **REVEREND MORRISEY:** Well, you have to
19 combine all the facts. I mean, before you pick up the
20 phone, just because somebody phones and says they've done
21 that, before you phone the Children's Aid Society or
22 whatever the group is, you're going to look and see is this
23 reasonable or is this a nutcase.

24 **MR. TALACH:** If I take you to, again,
25 Exhibit 632, which is your document brief, Tab 13 -- or

1 correction -- Tab 5. Tab 5 being an article you authored,
2 or I guess it's sort of a speech that was turned into an
3 article. Is that fair?

4 **REVEREND MORRISEY:** Yes. It was a
5 discussion paper, yes.

6 **MR. TALACH:** Okay. And at page 230 of that
7 -- page 230 which is the left-hand column, you write in the
8 first full paragraph:

9 "Once the first base has been completed
10 ..."

11 And this is in reference to the preliminary investigation;
12 correct?

13 **REVEREND MORRISEY:** Yes.

14 **MR. TALACH:** "... within a very short period
15 of time and if there is substance to
16 the accusations, the matter should then
17 be reported to the appropriate
18 authorities unless it has been already
19 brought to their attention beforehand."

20 **REVEREND MORRISEY:** Yes.

21 **MR. TALACH:** That's your ---

22 **REVEREND MORRISEY:** And then the next
23 sentence, I qualify that.

24 **MR. TALACH:** And I was going to read on:

25 "In some places, the Children's Aid

1 Society and similar organizations
2 insist that they are to be informed
3 even before the Church conducts any
4 internal inquiry."

5 **REVEREND MORRISEY:** M'hm.

6 **MR. TALACH:** So really, there's a lot of
7 discretion. There's sort of a fog there on how the Church
8 is to report. Is that fair? Some people might do it right
9 away. You're saying, "Hey, it might be best done after the
10 preliminary."

11 **REVEREND MORRISEY:** Well, that's why the
12 Canadian procedures have asked and recommended very
13 strongly that we have good working relationships with these
14 groups to see what are their requirements and how does this
15 work out.

16 This was done in the United States, don't
17 forget, in '91. But you have to look at -- you have to
18 look and see what arrangements have been made, and there's
19 an awful lot more collaboration today than there was
20 before.

21 **MR. TALACH:** But in Canada there's no
22 definitive rule that it be reported immediately or after
23 the preliminary investigation?

24 **REVEREND MORRISEY:** I'm not aware of any.

25 **MR. TALACH:** Okay. And who is this

1 investigator that does the preliminary investigations?

2 REVEREND MORRISEY: As I mentioned
3 yesterday, the bishop name is bishop's delegate.

4 MR. TALACH: And it's a priest?

5 REVEREND MORRISEY: It's a priest.

6 MR. TALACH: And you have written that under
7 canon law it has to be a priest?

8 REVEREND MORRISEY: Yes.

9 MR. TALACH: Okay. And that's because it
10 should be a notary to keep record of it?

11 REVEREND MORRISEY: Yes.

12 MR. TALACH: And you would agree that
13 depending on the size of the diocese, you know, priests get
14 to know each other. Is that fair?

15 REVEREND MORRISEY: Yes.

16 MR. TALACH: There might be some bias,
17 either good or bad for the accuser when they use a brother
18 priest?

19 REVEREND MORRISEY: Well, that's why we
20 suggested in the procedures that in the case of smaller
21 dioceses, the smaller dioceses come together and have a
22 joint -- like the same persons work for four dioceses.
23 It's exactly to avoid that possibility.

24 MR. TALACH: You don't know any of these
25 joint operations presently though?

1 **REVEREND MORRISEY:** Well, we have them up in
2 Northern Ontario, for instance, like with Timmins, Sault
3 Ste. Marie and those areas. Because one of the other
4 factors that come in there is that we have the English
5 groups. We have the French-speaking groups and then we
6 have the native groups. And so we have different teams
7 depending on the type of case that arises.

8 **MR. TALACH:** Just based on skill set, you
9 would agree that someone like an ex-police officer or a
10 private investigator might be better equipped to do this
11 investigation?

12 **REVEREND MORRISEY:** No.

13 **MR. TALACH:** Okay. What year is it in
14 seminary where priests get investigative skill training?

15 **REVEREND MORRISEY:** They don't.

16 **MR. TALACH:** So the priest isn't trained in
17 investigations, but under canon law they're the ones that
18 must do them; correct?

19 **REVEREND MORRISEY:** He is the one that is
20 supposed to carry it out, yes, and that's why we insist
21 they're assisted by a team of experts and people who are
22 aware of this.

23 **MR. TALACH:** Well, the experts don't come
24 into the preliminary investigation. That's just ---

25 **REVEREND MORRISEY:** They can. They can.

1 The team is right there.

2 MR. TALACH: But you have suggested that the
3 delegate do this and get a quick turnaround on his
4 conclusions; correct?

5 REVEREND MORRISEY: Yes, and that has to be
6 within 24 hours.

7 MR. TALACH: Okay. So within 24 hours
8 someone who is untrained and potentially biased has to turn
9 out a report that decides whether it's going to be reported
10 to the CAS or not?

11 REVEREND MORRISEY: Well, I wouldn't word it
12 that way.

13 MR. TALACH: Let's talk about return to
14 ministry.

15 You understand, and I know you're not a
16 medical professional, but canonically you view pedophilia
17 as a curable disorder?

18 REVEREND MORRISEY: True pedophilia, no.

19 MR. TALACH: Okay. And -- sorry?

20 MR. ENGELMANN: It's okay.

21 MR. TALACH: I thought you were about to
22 jump up.

23 MR. ENGELMANN: I was.

24 MR. TALACH: Okay. Now, at Tab or Exhibit
25 632 again -- it's the Paulson article. I missed the tab --

1 12, I believe.

2 REVEREND MORRISEY: It's 12.

3 MR. TALACH: Yes -- yes, at page 94.

4 And as we go to this article, this article
5 is sort of the team approach. It has perspectives from
6 different specialists, canon law, medical, psychological,
7 et cetera?

8 REVEREND MORRISEY: Yes.

9 MR. TALACH: Okay. In that page 94, close
10 to the bottom of that first paragraph it says:

11 "Working closely with children or youth
12 could be dangerous for the pedophile as
13 being a bartender could be for an
14 alcoholic."

15 Okay? You'd agree it's also very dangerous
16 for the children he may come in contact with?

17 REVEREND MORRISEY: Of course.

18 MR. TALACH: And ---

19 THE COMMISSIONER: I'm sorry. Can you just
20 situate me again?

21 MR. TALACH: Oh, sorry. At the page 94 ---

22 THE COMMISSIONER: Ninety-five (95) -- 94.

23 MR. TALACH: --- the top paragraph. It's
24 very long. I believe it's the ---

25 THE COMMISSIONER: Yes.

1 **MR. TALACH:** --- second-last sentence. It
2 starts on the right with "Working closely".

3 **THE COMMISSIONER:** Yes, yes, yes.

4 **MR. TALACH:** Okay.

5 Now, if you move ahead a little bit to page
6 120 of this article where I believe there is some
7 recommendations -- 120 again is a left-hand column at the
8 very bottom under "3" where it states "After treatment".
9 And I'm going to start, I think, the third sentence is
10 where it says -- or third or fourth where it says:

11 "Whether a man can be reassigned..."

12 "Whether a man can be reassigned..."

13 Again, this is Exhibit 632, Tab 12, page
14 120, and that's the Recommendation 3.1:

15 "Whether a man can be reassigned within
16 his own diocese depends on the
17 notoriety and severity of his offence,
18 the size of the diocese and the
19 bishop's willingness to accept the man
20 back into active ministry and the
21 diocesan needs. If ministry within the
22 diocese seems impractical or unwise or
23 if the diocese does not have the
24 capability of monitoring the patient's
25 behaviour, the possibility of

1 assignment within another diocese can
2 be explored."

3 This article is written in 1988, correct?

4 **REVEREND MORRISEY:** Yes.

5 **MR. TALACH:** So from the text of that, in
6 1988, within a church community, it's still being
7 recommended that there could be reassignment outside the
8 diocese where it happened.

9 **REVEREND MORRISEY:** Yes, but it doesn't say
10 reassignment to parishes.

11 **MR. TALACH:** Right, but I guess it gets some
12 people a little worried because, you'd agree, there was a
13 huge problem with transferring these people between
14 dioceses in the past?

15 **REVEREND MORRISEY:** It existed.

16 **MR. TALACH:** Okay. And I mean, in the past,
17 you know, the '60s -- the '50s, the '60s, the '70s, would
18 you agree a bishop would have to be a little careful about
19 getting someone else's priest?

20 **REVEREND MORRISEY:** Well, today you'd be
21 very, very careful.

22 **MR. TALACH:** But in that time period there
23 was no sort of perception that, "Why am I getting this
24 guy?"

25 **REVEREND MORRISEY:** Well, you'd have to ask

1 appropriate questions. I'm not saying that the answers
2 will be forthcoming.

3 **MR. TALACH:** Now, is presently the CCB's
4 position or recommendation that a convicted sex offender
5 priest can still return to ministry?

6 **REVEREND MORRISEY:** There is a possibility
7 in From Pain to Hope. That's a possibility of '92. Given
8 what has happened in the U.S. since then and the way in
9 which public opinion has moved, I don't think an article
10 like that would be repeated in the revised From Pain to
11 Hope.

12 **MR. TALACH:** But in '92 the recommendation
13 was there?

14 **REVEREND MORRISEY:** The possibility was
15 there.

16 **MR. TALACH:** Right, and to be fair, they
17 listed a number of conditions for return, right?

18 **REVEREND MORRISEY:** Yes.

19 **MR. TALACH:** I'll take you there. Again
20 this is Tab 13 of Exhibit 632. Tab 13 is the From Pain to
21 Hope publication and when I go to page 50 which is within
22 their recommendations, and Recommendation 20 -- so this is
23 page 50.

24 Are you there, Father Morrisey?

25 **REVEREND MORRISEY:** Yes.

1 **MR. TALACH:** It says:
2 "... deciding consultation with the
3 treatment centre about the possible
4 return to active ministry of a priest
5 who, having been convicted of child
6 sexual abuse and having served his
7 sentence, or having received a
8 suspended sentence, asked to resume his
9 ministry."

10 And then as I said, there is conditions and
11 those are on the next page at 51. And I just want to focus
12 on the fourth condition down, which says:

13 "The priest would have to agree to
14 maintain a relatively low profile in
15 the community."

16 What does that mean?

17 **REVEREND MORRISEY:** Well, that means at this
18 moment any convicted sex offender who gets out of jail, and
19 you have this list where they are and you try to find a
20 place to live and they are run out of the country in lots
21 of cases around here.

22 **MR. TALACH:** So the suggestion here is that
23 we keep -- low profile means try to keep the fact that he's
24 convicted on a need to know?

25 **REVEREND MORRISEY:** Well, it means for him

1 to keep out of the press and not start making speeches and
2 not -- you know, he might be assigned a desk job.

3 **MR. TALACH:** Now, if he does go back into
4 public ministry, parish ministry, which you said doesn't
5 happen anymore -- or I don't want to put words in your
6 mouth. You said that it would be unlikely to happen now,
7 correct?

8 **REVEREND MORRISEY:** Yes.

9 **MR. TALACH:** Okay. But there is no
10 prohibition on it not happening?

11 **REVEREND MORRISEY:** There is no categorical
12 prohibition.

13 **MR. TALACH:** But according to Pain to Hope
14 if he did go back to a parish -- at page 60 -- so again,
15 just flip forward a little bit -- Recommendation 43 -- I
16 think it's Recommendation 43.

17 **REVEREND MORRISEY:** Forty-three (43).

18 **MR. TALACH:** The only thing on page 60, it
19 says that:

20 "You must currently inform the parish
21 council or a representative or parish
22 parishioners in an open and responsible
23 way before appointing a priest who has
24 been reeducated into the pastoral
25 ministry and ensure that the receiving

1 parish community will support the
2 initiative of his appointment."

3 In a smaller font it says:

4 "This sharing of information is not
5 without problems, given the additional
6 pressure it puts on the candidate for
7 reentry. Nonetheless, experience tends
8 to indicate that those few who are
9 involved in the situation will be fully
10 supportive."

11 Do you read that recommendation, and from
12 your involvement in Pain to Hope; do you understand that's
13 telling the bishop or the diocese to tell the parish?

14 **REVEREND MORRISEY:** Not the whole parish;
15 tell the parish council or representative parishioners.

16 **MR. TALACH:** Do you not see the problem that
17 sort of secrecy which is sneaking back into this creates?
18 Do you not see the problem that can create?

19 **REVEREND MORRISEY:** What you have here --
20 you've got to remember that there -- From Pain to Hope if
21 you take the first definition it's anything from somebody
22 who looked at somebody and they didn't like the way they
23 looked at them to somebody who raped someone. You've got a
24 whole gamut of things there and it's not just one size fits
25 all.

1 **MR. TALACH:** No, but we're talking about
2 here in the circumstance of a convicted sex offender.

3 **REVEREND MORRISEY:** Yes, but convicted for
4 what? You know, I mean, there is many, many offences here
5 and you have to look at the different type of things.

6 **MR. TALACH:** So if they're convicted under a
7 criminal sex crime under secular Canadian law, you're
8 saying the Church may not view that as serious as society
9 if it's something minor?

10 **REVEREND MORRISEY:** Well, it's going to
11 depend what it was.

12 **MR. TALACH:** Okay. But this Pain to Hope
13 document seems to suggest that we're not going to tell the
14 whole parish; is that fair?

15 **REVEREND MORRISEY:** Yeah, that's what's
16 written there in 43.

17 **MR. TALACH:** Okay. Now, what about if there
18 is a school there? What happens if there is a school
19 associated with the parish? What's the recommendation or
20 what do you know is the position?

21 **REVEREND MORRISEY:** Well, again, see, you
22 keep harping back to things 20-25 years. Things have
23 moved. We're trying to address things differently now.

24 **MR. TALACH:** I'm focusing on the '92 period
25 right now.

1 **REVEREND MORRISEY:** I know, but remember
2 yesterday we said this document is up for revision now.
3 We're learning; we're moving and ---

4 **MR. TALACH:** Well, the Commissioner has a
5 very big job for him. He is going to have to talk about
6 different periods in history.

7 **REVEREND MORRISEY:** Yes, I don't envy him.

8 **MR. TALACH:** Okay.

9 What do you understand in -- you know, from
10 your understanding in the turn of the century, 2000 and
11 2001 period, what would be the protocol with respect to if
12 there is a parish school and he is returning?

13 **REVEREND MORRISEY:** Oh, he won't go near a
14 school. He won't be allowed near a school.

15 **MR. TALACH:** Okay. If I can take you to Tab
16 7 of 632, which is an article you wrote called Addressing
17 the Issue of Clergy Abuse and I'm looking at page 418.

18 **(SHORT PAUSE/COURTE PAUSE)**

19 **MR. TALACH:** Just bear with me here. I
20 apologize.

21 **REVEREND MORRISEY:** It's number seven.

22 **MR. TALACH:** Okay, good. No, I'm looking
23 for something about -- oh, here we are. Yes. My
24 highlighter failed at this moment.

25 In the middle of seven it says ---

1 **THE COMMISSIONER:** Good anticipation finding
2 those.

3 **MR. TALACH:** We worked on this together last
4 night to impress you.

5 "Also, if there is a parish school, the
6 principal should be notified
7 discreetly."

8 That's your writing; correct?

9 **REVEREND MORRISEY:** Yes.

10 **MR. TALACH:** Do you again not see the danger
11 in that?

12 **REVEREND MORRISEY:** That was before Dallas,
13 before everything broke.

14 **MR. TALACH:** But this is well after Pain to
15 Hope. This is 2001.

16 **REVEREND MORRISEY:** Yes, 2001, yes, but it's
17 before Dallas, and that's the watershed date.

18 **MR. TALACH:** So I don't have to use the -- I
19 mean, the example obviously is what if the parents or the
20 homeroom teacher do not know that when Billy goes with
21 Father X that Father X is a convicted sex offender. You
22 see the problem?

23 **REVEREND MORRISEY:** I can see what was the
24 problem.

25 **MR. TALACH:** Okay.

1 **THE COMMISSIONER:** And now it's not a
2 problem because it wouldn't happen?

3 **REVEREND MORRISEY:** It wouldn't happen now.

4 **MR. TALACH:** It wouldn't happen because
5 you're saying that practically no convicted sex offenders
6 are returned to parishes.

7 **REVEREND MORRISEY:** That's almost
8 categorical.

9 **MR. TALACH:** But within the Church there is
10 no norm, there is no instruction, there is nothing -- no
11 modification in canon law. It can still happen.

12 **REVEREND MORRISEY:** Yes, but common sense
13 prevails too.

14 **MR. TALACH:** Well, common sense isn't as
15 common as it sounds.

16 Let's talk about just some canons about
17 returning, and you'd agree a priest does not have a right
18 to be assigned a ministry in the Latin Church?

19 **REVEREND MORRISEY:** Yes.

20 **MR. TALACH:** And you'd agree that he doesn't
21 have the right to reside in a rectory or other Church
22 related institution?

23 **REVEREND MORRISEY:** Yes.

24 **MR. TALACH:** He does have a right to certain
25 material benefits?

1 REVEREND MORRISEY: Yes.

2 MR. TALACH: And the Vatican cannot force a
3 bishop to return a priest to ministry?

4 REVEREND MORRISEY: Correct.

5 MR. TALACH: So there's no canonical reason
6 that he has to come back?

7 REVEREND MORRISEY: That he has to come
8 back, no.

9 MR. TALACH: Okay. And, you know, we talked
10 about a psychological condition such as pedophilia or these
11 mental disturbances that can prevent dismissal, these
12 mental disturbances that alleviate impugnability. Are you
13 with me?

14 REVEREND MORRISEY: Yes.

15 MR. TALACH: We are agreed in that.

16 Can those not be found as reasons that the
17 person is unsuitable to exercise ministry?

18 REVEREND MORRISEY: Yes, but there's a
19 difference between being found unsuitable to exercise
20 ministry and being dismissed from the clerical state. And
21 that's why we have houses or places for priests who cannot
22 be -- you see, what -- the difficulty is this, if we
23 dismiss a priest from the clerical state, nobody has any
24 authority over him and then it can be 1000 times worse.

25 So sometimes by keeping the priest in, but

1 in a special residence or place like that where it's like
2 what you might call house arrest in courts, the Church then
3 is still able to protect other people from being a victim
4 of this guy.

5 **MR. TALACH:** I'm going to ask you about a
6 statement if you agree with it. I believe Monsignor, is it
7 Schonenbach, was the chairman of the CCCB.

8 **REVEREND MORRISEY:** Schonenbach.

9 **MR. TALACH:** Schonenbach. He once said
10 something to the effect that we're doing society a favour
11 because we're keeping these people. If they were fired and
12 went out to become taxi cab drivers nobody would be looking
13 after them. Is that what you're saying?

14 **REVEREND MORRISEY:** Well, it's something
15 equivalent to that, yes.

16 **MR. TALACH:** But these guys still get to
17 walk around with the Roman collar ---

18 **REVEREND MORRISEY:** No, no, no, most of the
19 time they're forbidden to wear clerical dress.

20 **MR. TALACH:** Okay. But again, no mandatory
21 restriction. That's discretionary.

22 **REVEREND MORRISEY:** No what?

23 **MR. TALACH:** There's no mandatory
24 restriction that they be -- not wear the priestly garb.

25 **REVEREND MORRISEY:** No, it's up to the

1 bishops.

2 **MR. TALACH:** Okay.

3 **REVEREND MORRISEY:** In the United States
4 it's specifically mentioned though in the, you know, the
5 essential norms that they will be forbidden to wear.

6 **MR. TALACH:** The U.S. seems a little ahead
7 of us.

8 **REVEREND MORRISEY:** Yes, they are. Well,
9 now -- and that's why Canada is working now on the
10 revision.

11 **MR. TALACH:** You've agreed that a timely
12 response to this -- that time is key. You've got to get
13 there, you've got to deal with it, right, when you have an
14 accusation?

15 **REVEREND MORRISEY:** Of course.

16 **MR. TALACH:** But since 2001, these things
17 now have to go to Rome.

18 **REVEREND MORRISEY:** Yes.

19 **MR. TALACH:** I mean, that delay is
20 problematic.

21 **REVEREND MORRISEY:** I don't like it.

22 **MR. TALACH:** Okay. And not only is it
23 problematic, these things now become cloaked with that Holy
24 Office secrecy, right?

25 **REVEREND MORRISEY:** That's what the law is.

1 **MR. TALACH:** Okay. I know you didn't have a
2 part in drafting that and we're just trying to review it.

3 Is there also not a problem that the Vatican
4 -- I'm going to call them appeal courts, but the
5 congregation that review some of these cases, they're very
6 technical. They'll throw things out as we call it.

7 **REVEREND MORRISEY:** Yes, un-procedural
8 errors or what you would call a technicality sometimes.

9 **MR. TALACH:** But that process of being
10 decided to be a technicality and it being thrown out is all
11 top secret again?

12 **REVEREND MORRISEY:** Yes.

13 **MR. TALACH:** Okay.

14 **REVEREND MORRISEY:** Unless the priest
15 afterwards makes it public, which some have done.

16 **MR. TALACH:** Your personal opinion as you
17 sit here today is do you favour a priest returning to
18 ministry after conviction?

19 **REVEREND MORRISEY:** Certainly not the parish
20 ministry or any type of ministry like that. Categorically,
21 no.

22 **MR. TALACH:** Do you think these convicted
23 guys should be dismissed then, or no?

24 **REVEREND MORRISEY:** Well, again, if we
25 dismiss them we're washing our hands of them.

1 **MR. TALACH:** Is part of your outlook the
2 fact that the Church has invested a lot of money and time
3 and resources into training these guys and creating them?

4 **REVEREND MORRISEY:** Well, certainly. I mean
5 it costs about a quarter of a million dollars to ordain a
6 priest today. That becomes a pretty important asset for a
7 diocese. And so what you're going to try to do is say
8 "What's the best I can do to help this person."

9 **MR. TALACH:** But there is a financial
10 consideration of "Wow, we got a lot of money in this guy."

11 **REVEREND MORRISEY:** Well, you have. And
12 it's just like if in companies if they've trained a pilot
13 or trained somebody and that person gets sick you try to do
14 what you can to help.

15 **MR. TALACH:** But you'd agree, if they keep a
16 bad priest and he gets into trouble he can cost them
17 millions in lawsuits?

18 **REVEREND MORRISEY:** He can cost an awful lot
19 of money.

20 **MR. TALACH:** I mean, do you know how many
21 victims of Father Sylvester were involved in the criminal
22 process?

23 **REVEREND MORRISEY:** I couldn't tell you.

24 **MR. TALACH:** Forty-seven (47).

25 **REVEREND MORRISEY:** Okay.

1 **MR. TALACH:** So that can add up to a lot of
2 money.

3 **REVEREND MORRISEY:** It could.

4 **MR. TALACH:** Okay. Have you interpreted the
5 canons that sexually -- or priests abusing minors are
6 always entitled to a warning before severe penalties?

7 **REVEREND MORRISEY:** Before a suspension
8 you're entitled to a warning. But now what you have to do
9 is -- any priest, after 2001, is considered to have been
10 warned. Priests know. All priests now have to sign the
11 protocol of the diocese and say "I was aware of this. I
12 recognize that this is what will happen." And so they have
13 been given the warning.

14 **MR. TALACH:** So it's not a warning -- when
15 we talk about warning, it's not a warning that you get sort
16 of a get out of jail free card on the first offence?
17 That's not ---

18 **REVEREND MORRISEY:** No, no, not that.

19 **MR. TALACH:** Okay.

20 **REVEREND MORRISEY:** But no priest today can
21 claim ignorance. Any priest who has faculties to function
22 could not claim ignorance of this rule.

23 **MR. TALACH:** You hold the view that there's
24 been many frivolous lawsuits over complaints of sexual
25 abuse against authority figures, including the Church?

1 REVEREND MORRISEY: Yes.

2 MR. TALACH: Is there a study or is there
3 some information you take that from or is that from your
4 own experience?

5 REVEREND MORRISEY: My own experience.

6 MR. TALACH: Okay. And where do you -- are
7 these lawsuits you learn of through the paper or through
8 the ones that you're consulted with, or how did you amass
9 this ---

10 REVEREND MORRISEY: Well, the priests that
11 I've been helping. I'm involved with over 100 priests in
12 different areas. And as I say, it's anecdotal evidence
13 that you start gathering.

14 MR. TALACH: And I take it a lot of them
15 have told you they didn't do it?

16 REVEREND MORRISEY: Well, you have to look
17 and see, is that denial or is that protection or, you know,
18 there's all the defences come in along the line there.

19 MR. TALACH: You believe that many of the
20 accusations have been found to be without foundation?

21 REVEREND MORRISEY: Quite a number have been
22 found to be -- an awful lot of them have been exaggerated.
23 See, I've been doing -- for the last few years I've been
24 terribly involved with the Indian residential schools in
25 Canada and those allegations, and the people come forward

1 in the thousands, and then that they're claiming about I
2 was abused in such and such a school. We have the
3 registration lists of all those schools who -- they weren't
4 even there those years.

5 It's just become a cottage industry. And
6 what's happening with that is it puts you on the defences
7 so that the real cases sometimes get considered that they
8 could be frivolous too. And it's to get rid of the chef in
9 order to get to the real cases.

10 **MR. TALACH:** I want to take you to Tab 7 of
11 Exhibit 632. And I'm trying my best here to finish us by
12 noon, Father Morrissey, so the end is in sight. Tab 7 of
13 Exhibit 632 at page 407. And that's on the right-hand
14 column of the screen. And the very last sentence in that
15 paragraph at the top of 407 it says:

16 "To this we could ..."

17 And you're talking -- to put the context
18 here, you agree you're talking about the factors that have
19 made this problem more prevalent in the recent period?

20 **REVEREND MORRISEY:** Yes.

21 **MR. TALACH:** And you put:

22 "To this we could add an element of
23 greed that at times excessive awards
24 granted to victims by the courts which
25 awards are often millions of dollars."

1 That's your opinion back then?

2 **REVEREND MORRISEY:** And today too.

3 **MR. TALACH:** And today.

4 And you footnote 12, which is a reference to
5 a single case in Dallas where there was \$120 million
6 against the diocese.

7 Did you know how many victims were in that
8 case?

9 **REVEREND MORRISEY:** It was one boy.

10 **MR. TALACH:** It was one boy.

11 **REVEREND MORRISEY:** For that case. That's
12 the Rudy Kos case.

13 **MR. TALACH:** I'll bet you that lawyer is
14 retired.

15 **REVEREND MORRISEY:** No, no, that was thrown
16 out in appeal. I was involved in the appeal in that case.

17 **MR. TALACH:** Okay. So you were involved in
18 that case.

19 You understand in Canadian law the awards
20 aren't that large; correct?

21 **REVEREND MORRISEY:** They're not that large
22 but there's still a contingency fees and that we're getting
23 that in the schools, you know, the Indian residential
24 schools and that's been the whole thing on this too. You
25 get 40 percent contingency fees. It's just -- you keep

1 increasing it.

2 **THE COMMISSIONER:** So you mean 40 percent
3 contingency fees, the lawyer gets 40 percent of the
4 outcome?

5 **REVEREND MORRISEY:** Yes.

6 **MR. TALACH:** But they get 40 percent of what
7 the person is entitled to; that's the way it works?

8 **REVEREND MORRISEY:** What the person gets.

9 **MR. TALACH:** Yes. So with the awards being
10 lower in Canada you would agree that the greed factor can't
11 be as much of a factor here?

12 **REVEREND MORRISEY:** Oh, it's very much of a
13 factor in western Canada, very much. And in fact, the
14 courts in Canada have even censured the lawyers. One has
15 had his license revoked because of excessive charges.

16 **MR. TALACH:** So the lawyers and the victims,
17 not exclusively, but a lot of them are greedy?

18 **REVEREND MORRISEY:** There has been a number
19 of instances of that in Canada.

20 **MR. TALACH:** So I mean, do you think the
21 litigation and the public exposure around that does any
22 good?

23 **REVEREND MORRISEY:** Public exposure around
24 what, around ---

25 **MR. TALACH:** Litigation and all of these

1 lawsuits, does it do any good?

2 **REVEREND MORRISEY:** Well, I think what it's
3 doing, it's deflecting the whole thing away from the real
4 issue, and the real issue is that people were abused and
5 that's the tragedy.

6 **MR. TALACH:** I want to take you to Tab 5 of
7 Exhibit 632. Tab 5 is the -- again, that speech that was
8 turned into a discussion paper. At page 224, 224, which is
9 only a couple of pages in, on the left-hand column at the
10 top under (c) Fear of Loss of Money, you write:

11 "Without being too naughty, it seems
12 that it was the ..."

13 And this is about again the context. This
14 is about the litigation, correct?

15 **REVEREND MORRISEY:** M'hm.

16 **MR. TALACH:** It says:

17 "Without being too naughty, it seems
18 that it was only once the matter
19 started costing money following court
20 judgments that certain concrete steps
21 were taken to reduce liability for
22 future situations and the setup of
23 appropriate mechanisms to look into the
24 question."

25 Those are your words, right?

1 REVEREND MORRISEY: Yes.

2 MR. TALACH: So there has been a side effect
3 of the litigation that's helped cause some change. Is that
4 true?

5 REVEREND MORRISEY: Yes.

6 MR. TALACH: And that's because when an
7 institution starts feeling the pinch in their pocketbook,
8 they start to do something.

9 REVEREND MORRISEY: Unfortunately.

10 MR. TALACH: And if we track the big
11 movements in the globe on these cases, they are tied to
12 public exposure and litigation. Is that fair?

13 REVEREND MORRISEY: It's certainly an
14 element of that.

15 MR. TALACH: I mean, let's look ---

16 REVEREND MORRISEY: I'm hoping that there is
17 more to it than that.

18 MR. TALACH: Let's look at we know Doyle,
19 Father Doyle as a result of the Diocese of Lafayette
20 issues, did his 1985 proposal, right?

21 REVEREND MORRISEY: Yes.

22 MR. TALACH: And Mount Cashel came about and
23 it was followed on the heels by the '87 -- oh, by the
24 Winter Commission?

25 REVEREND MORRISEY: Yes.

1 **MR. TALACH:** And the Winter Commission in
2 some more of these cases led From Pain to Hope?

3 **REVEREND MORRISEY:** Correct.

4 **MR. TALACH:** And in the U.S. it was Boston
5 that led to the Dallas Charter?

6 **REVEREND MORRISEY:** Boston and then others,
7 but Boston was the catalyst.

8 **MR. TALACH:** Okay.

9 Now, I just want to briefly talk about your
10 relationship with the diocese. I understand you've done
11 some work for them in the past.

12 **REVEREND MORRISEY:** The diocese of ---

13 **MR. TALACH:** Oh, this diocese, Diocese of
14 Alexandria-Cornwall.

15 **REVEREND MORRISEY:** Yes.

16 **MR. TALACH:** Ottawa is an hour and a half
17 drive from her?

18 **REVEREND MORRISEY:** Yes, about that.

19 **MR. TALACH:** And you've known some of the
20 bishops and the priests that have operated here in this
21 diocese?

22 **REVEREND MORRISEY:** Yes.

23 **MR. TALACH:** Provided canonical advice to
24 them over the years?

25 **REVEREND MORRISEY:** On occasion.

1 **MR. TALACH:** Okay.

2 **REVEREND MORRISEY:** I taught many of the
3 priests.

4 **MR. TALACH:** Sorry?

5 **REVEREND MORRISEY:** I taught many of the
6 priests here.

7 **MR. TALACH:** And again, at Tab 7 -- I
8 shouldn't have put this away -- Tab 7, your article
9 addressing the issue of clergy abuse, which is a 2001
10 article -- at page 407, I think we were just there,
11 actually. Under "Other abuses" I just want to look at
12 footnote 13 and, again, the context is you're talking about
13 some of the unsubstantiated charges and the abuses that
14 have occurred as a result of this issue. Is that fair?

15 **REVEREND MORRISEY:** Yes.

16 **MR. TALACH:** You say:

17 "Sometimes even the Catholic press can
18 be involved. For instance, a lawsuit
19 is pending (at the time of writing) in
20 the Ontario Superior Court of Justice
21 against The Wanderer for an article
22 which appeared on August 17th, 2000
23 issue and it was entitled 'Pending
24 Arrest of Pedophiles, Expected to
25 Implicate Bishop.'"

1 How are you familiar with that lawsuit?

2 **REVEREND MORRISEY:** It was in the paper.

3 **MR. TALACH:** But you said pending at the
4 time of the writing.

5 **REVEREND MORRISEY:** Yes. But it had been
6 introduced. It hadn't been heard.

7 **MR. TALACH:** Do you know who the defendants
8 or who the plaintiffs were in that lawsuit?

9 **REVEREND MORRISEY:** No. I mean, I could
10 look it up but I don't know it by heart.

11 **MR. TALACH:** Well, you're citing that that
12 is an example of false accusations.

13 **REVEREND MORRISEY:** No, I'm citing this as
14 an example -- if you go back to the text it's -- the
15 numerous, being false or unsubstantiated charges against
16 members of the clergy, and so because somebody says a
17 priest of a bishop is involved, if you don't have proof you
18 shouldn't be putting this in the press till you've got
19 basic proof.

20 **MR. TALACH:** Mr. Commissioner, I just want
21 to put a document to him at this point for identification.
22 If he is not able to speak to it. I'm not going to make it
23 an exhibit.

24 **THE COMMISSIONER:** M'hm.

25 **MR. TALACH:** I don't know the process for

1 that. Maybe before -- how do you want to handle that? Do
2 you want me to handout 20 copies?

3 **THE COMMISSIONER:** Yes.

4 **(SHORT PAUSE/COURTE PAUSE)**

5 **MR. TALACH:** And I apologize for the size.
6 I really only need the cover page but I didn't want to be
7 accused of an incomplete document.

8 **THE COMMISSIONER:** All right.

9 **MR. TALACH:** This is an Ontario Superior
10 Court of Justice statement of claim, Father Morrisey, and
11 from looking at just the cover of it, and I just want to
12 look at the front which lists the plaintiffs and the
13 defendants, is this the lawsuit you are referring to? I'm
14 not even going to go inside.

15 **REVEREND MORRISEY:** Okay. That one is dated
16 September 19th, 2000 and I was referring to something on
17 August 17th that appeared in the -- so it's probably the
18 same thing.

19 **MR. TALACH:** You see in the defendants it
20 mentions The Wanderer Printing Company?

21 **REVEREND MORRISEY:** Company, yes.

22 **MR. TALACH:** And Mr. Commissioner, I'd like
23 to mark -- and really, I just need the front page, but
24 we'll mark the whole document subject to any issues, as an
25 exhibit so I can ask him some questions about this.

1 **THE COMMISSIONER:** Exhibit P-635, so we will
2 take the "I" off of it.

3 **--- EXHIBIT NO./PIÈCE NO. P-635:**

4 Ontario Superior Court of Justice Statement
5 of Claim 2013 Court File No. 00-00-015075

6 **MR. TALACH:** The plaintiffs in this lawsuit,
7 the people that are suing, any of those names look familiar
8 to you?

9 **REVEREND MORRISEY:** Yes.

10 **MR. TALACH:** Who are they?

11 **REVEREND MORRISEY:** A number of these are
12 priests of the Diocese of Cornwall or the bishop.

13 **MR. TALACH:** And from your media review or
14 any understanding outside that of this lawsuit, you
15 understand this to be a lawsuit for priests suing an
16 Internet site and a publication and some other groups for
17 false information, for defamation?

18 **REVEREND MORRISEY:** I haven't read this
19 thing but that's -- that was the context, yes.

20 **MR. TALACH:** And you footnoted in an article
21 -- in that article we just went to, that this was an
22 example of unfounded accusations and how the Catholic press
23 can be involved.

24 **REVEREND MORRISEY:** And I have no idea how
25 this suit turned out.

1 **MR. TALACH:** Okay. But you were confident
2 enough in the conclusions there were unfounded at the time
3 you were writing that you referred to this as an example of
4 unfounded writing?

5 **REVEREND MORRISEY:** Yes.

6 **MR. TALACH:** How did you know that they were
7 unfounded? How were you that confident to be able to write
8 that in your article?

9 **REVEREND MORRISEY:** Well, if you know who
10 the people you're dealing with, then you know.

11 **MR. TALACH:** So you knew these people?

12 **REVEREND MORRISEY:** I know the other side,
13 too, yes.

14 **MR. TALACH:** Okay. But you knew the -- you
15 knew the plaintiffs?

16 **REVEREND MORRISEY:** I knew them, yes.

17 **MR. TALACH:** You knew Bishop LaRocque?

18 **REVEREND MORRISEY:** Of course.

19 **MR. TALACH:** You knew all the priests of the
20 diocese that are listed there?

21 **REVEREND MORRISEY:** I have met them all,
22 yes.

23 **MR. TALACH:** Okay.

24 And I mean you've provided canonical
25 opinions before for this diocese we reviewed?

1 REVEREND MORRISEY: Yes.

2 MR. TALACH: Okay. Do you think the fact
3 you knew these people affects you here today?

4 REVEREND MORRISEY: I hope not. I mean, pro
5 or con.

6 MR. TALACH: Pro or con.

7 REVEREND MORRISEY: Yeah, I mean.

8 MR. TALACH: Okay. Let's turn -- did you
9 learn of any of the information of this outside that
10 newspaper article?

11 REVEREND MORRISEY: I can't tell you. It's
12 seven years ago. Honestly, I don't know.

13 MR. TALACH: Okay. I'm just rounding up
14 here. I just want to talk about what I call legislative
15 leniency for sex offenders.

16 Would you agree that for murder it's
17 automatic dismissal from the priestly state?

18 REVEREND MORRISEY: I'm going to have to
19 check that one.

20 MR. TALACH: Canon 1397 is where I am.

21 REVEREND MORRISEY: Yes.

22 No, it's not automatic.

23 MR. TALACH: Well, let's look at Canon 695.

24 REVEREND MORRISEY: Yes, that's for
25 religious.

1 **MR. TALACH:** That's only for religious,
2 right?

3 **REVEREND MORRISEY:** Yes.

4 **MR. TALACH:** And what's the definition of
5 religious in this context?

6 **REVEREND MORRISEY:** It's a member of an
7 order, an order of sisters or brothers or priests.

8 **MR. TALACH:** Or priests, or someone like
9 yourself because you're with the Oblates?

10 **REVEREND MORRISEY:** Yes.

11 **MR. TALACH:** Okay, 695 states, in essence,
12 that a member must be dismissed for the offences mentioned
13 in Canons 1397, 1398 and 1395.

14 So that's essentially murder, mutilation,
15 abortion or living with a woman?

16 **REVEREND MORRISEY:** And public sins against
17 the 6th Commandment in all of those.

18 **MR. TALACH:** But only the public ones result
19 in a dismissal automatically?

20 **REVEREND MORRISEY:** Not automatic.

21 **MR. TALACH:** But it indicates "must".

22 **REVEREND MORRISEY:** Must be dismissed is not
23 automatic. You have a process.

24 **MR. TALACH:** Okay. But there's a very
25 strong indication there legislatively that it must be done.

1 **REVEREND MORRISEY:** But then look at the
2 rest of that paragraph, it says "Unless" -- there's the
3 nese clause.

4 **MR. TALACH:** I have it in front of me in
5 English. Maybe you want to just -- so I can deal with
6 this, maybe you can explain to me what you're saying.

7 **REVEREND MORRISEY:** "Unless the superior
8 judges that dismissal is not absolutely
9 necessary and that sufficient provision
10 can be made in some other way for the
11 amendment of the member, the
12 restoration of justice and the
13 reparation scandal."

14 **MR. TALACH:** But that is only in reference
15 to 1395(2), right?

16 **REVEREND MORRISEY:** Yes.

17 **MR. TALACH:** So there's a discretion on
18 1395(2) which is sexual abuse of minors.

19 **REVEREND MORRISEY:** Yes, but what this case
20 means, you have to put this canon back in the context of
21 dismissal. These cases here, for Canon 695, mean that
22 there are no prior warnings.

23 And in the article that was mentioned
24 yesterday, that's one of the ones I said if this canon were
25 being re-written, there would certainly have to be changes

1 in it.

2 **MR. TALACH:** So my point here was to
3 emphasize the point you raised, and you would agree with me
4 that at least 695 has an exception, sort of a waiver for
5 the offences in 1395 which are sexual abuse of minors.
6 They're not covered by the "must be dismissed"?

7 **REVEREND MORRISEY:** It's the same reason as
8 I mentioned earlier. Don't put these people out. Keep
9 them in a house arrest, as it were.

10 **MR. TALACH:** But you throw out the guy who
11 lived with a woman?

12 **REVEREND MORRISEY:** Yeah, well, that's not a
13 crime. You see, it's a Church crime, but that's not a
14 civil crime.

15 **MR. TALACH:** So you throw out the guy where
16 it's not a civil crime but you keep the one where it's a
17 criminal secular crime?

18 **REVEREND MORRISEY:** Keeping him, and again,
19 it's protecting society.

20 **MR. TALACH:** Okay. Just rounding up here,
21 I'm going to suggest that the Church's legal system, either
22 as it's written or as it's applied, has made it difficult
23 to deal with sex offender priests. Is that a fair comment?

24 **REVEREND MORRISEY:** I've said in many
25 articles, and you've seen them, that the law has to be

1 revised. I've asked the Holy Seat for a complete revision
2 of Book 6 in the light of what we have and hopefully that
3 will come about.

4 **MR. TALACH:** So up until about 2001, I just
5 want to review the following canonical things that I think
6 support this, and I want to see if you agree or disagree,
7 okay?

8 First of all, if a priest is caught, a
9 preliminary investigation must be done by a brother priest?

10 **REVEREND MORRISEY:** Yes, a priest is the
11 delegate.

12 **MR. TALACH:** Okay. And this priest may or
13 may not be biased? We talked about that.

14 **REVEREND MORRISEY:** May or may not.

15 **MR. TALACH:** And according to the canons,
16 there's no obligation that he be trained in this specific
17 skill?

18 **REVEREND MORRISEY:** No, his purpose is to
19 see does the accusation have a semblance of truth. That's
20 all you need at that moment. That's not moral certitude.
21 It's not -- it's just does it have a semblance of truth,
22 and if it does, then you have to -- the wheels are set in
23 motion.

24 **MR. TALACH:** But the evidence of one witness
25 in a canonical trial in these cases is not proof of the

1 crime?

2 REVEREND MORRISEY: Well, we're not at the
3 canonical trial level yet.

4 MR. TALACH: But I'm moving around different
5 areas. You need more than one witness for this man to be
6 convicted in the Church, right?

7 REVEREND MORRISEY: One witness or there's a
8 whole number of other canons too that said you can
9 supplement the testimony of one witness.

10 MR. TALACH: Okay. So there's some
11 exception to that?

12 REVEREND MORRISEY: Yes.

13 MR. TALACH: Okay. If his condition is
14 viewed as a mental illness, he can't be fully prosecuted.
15 Is that fair?

16 REVEREND MORRISEY: If it's a full-blown
17 mental illness, yes. But then if it's a full-blown mental
18 illness, he's going to be hospitalized or some type of ---

19 MR. TALACH: Treated.

20 REVEREND MORRISEY: Some -- you know, but it
21 could be permanent.

22 MR. TALACH: And before he's dismissed, the
23 other reasonable avenues and alternatives must be explored;
24 correct?

25 REVEREND MORRISEY: A dismissal is the last

1 stage.

2 **MR. TALACH:** And the Church rarely
3 prosecutes in practice. We talked about that.

4 **REVEREND MORRISEY:** Yes, and especially now
5 that we can do these cases administratively.

6 **MR. TALACH:** And that administrative route
7 though eliminates the most severe -- for the bishop,
8 eliminates his ability to use the most severe punishments;
9 correct?

10 **REVEREND MORRISEY:** Yes, but Rome is much
11 harder than the bishop would be in a lot of cases.

12 **MR. TALACH:** But at the bishop level, when
13 he goes administrative, he eliminates a lot of his powers;
14 is that fair?

15 **REVEREND MORRISEY:** He eliminates ---

16 **MR. TALACH:** His powers of punishment.

17 **REVEREND MORRISEY:** Well, I wouldn't put it
18 that way because, you see, if the bishop turns the case
19 over to a trial -- to a court, the bishop can't intervene
20 then. It's the court that handles it. You don't take
21 instructions from the bishop.

22 **MR. TALACH:** Okay. But the court can't
23 impose the -- no, I'm talking about administrative. If he
24 goes administratively, he doesn't have access to his full
25 powers?

1 **REVEREND MORRISEY:** He doesn't have -- no,
2 he doesn't have access to his full powers, but to go
3 administratively, he had to get permission from Rome to do
4 so.

5 **MR. TALACH:** We're talking about before
6 2001?

7 **REVEREND MORRISEY:** No, even now.

8 **MR. TALACH:** Before 2001?

9 **REVEREND MORRISEY:** No, even now, after
10 2001, he needs Rome's permission to proceed
11 administratively and then the file has to go back to Rome
12 for confirmation.

13 **MR. TALACH:** And that Rome dialogue causes
14 delay?

15 **REVEREND MORRISEY:** It takes time.

16 **MR. TALACH:** And the priest cannot be forced
17 to attend treatment?

18 **REVEREND MORRISEY:** No.

19 **MR. TALACH:** He can't be forced to turn over
20 his treatment records to the bishop or diocese?

21 **REVEREND MORRISEY:** No.

22 **MR. TALACH:** And during his secular trial,
23 there's an obligation on the diocese to fund at least his
24 medical and potentially some of his legal fees?

25 **REVEREND MORRISEY:** That's disputed how much

1 the obligation is.

2 **MR. TALACH:** But there's some -- there's
3 general consensus there should be some contribution from
4 the diocese?

5 **REVEREND MORRISEY:** Yes, and I've -- that's
6 one of the points I've mentioned in articles that has to be
7 clarified.

8 **MR. TALACH:** And Pain to Hope says that if
9 he goes to jail, he's to be visited regularly?

10 **REVEREND MORRISEY:** It could be. I don't
11 know.

12 **MR. TALACH:** Okay. I'm almost done, but
13 let's just take you back, because I found it surprising.
14 That's at Tab 13, Pain to Hope, Recommendation 42, which is
15 at page 59. My apology. Page 59, and this Recommendation
16 42 says -- and this is with respect to conviction, it says
17 in bold:

18 **"Continue caring for the incarcerated**
19 **priest; visit him periodically offering**
20 **him the moral support needed. Never**
21 **forgetting he is a fellow human being**
22 **and a child of God in need of**
23 **compassion."**

24 So Pain to Hope says "Make sure we visit
25 this guy." Is that fair?

1 **REVEREND MORRISEY:** That's fair. You just
2 don't throw him to the lions.

3 **MR. TALACH:** There's nothing specific in
4 Pain to Hope about how often ---

5 **REVEREND MORRISEY:** No.

6 **MR. TALACH:** --- or how -- let me finish my
7 question. There's nothing specific in Pain to Hope about
8 how regular or how long the diocese continue its moral
9 support of the victim, is there?

10 **REVEREND MORRISEY:** No.

11 **MR. TALACH:** And you've suggested that when
12 someone comes out and is going to be dismissed, that the
13 diocese continue to pay them for two years after their
14 dismissal. Is that fair?

15 **REVEREND MORRISEY:** That was my suggestion.
16 That's not the letter of the law. That's one of the points
17 I'm trying to raise.

18 **MR. TALACH:** So if it was so bad they got
19 fired, you said "Pay him for another two years to help them
20 with the transition"?

21 **REVEREND MORRISEY:** Help with the
22 transition. It's like a severance pay.

23 **MR. TALACH:** Now, if along the way somewhere
24 one of these procedures is bungled, the Vatican is probably
25 going to strike it for or potentially could strike it for

1 technical reasons, right?

2 REVEREND MORRISEY: Well, then they say "You
3 start over."

4 MR. TALACH: Okay. And the best efforts are
5 made to keep this whole ordeal secret. We've gone over
6 that.

7 REVEREND MORRISEY: We've said that.

8 MR. TALACH: Okay. Now, would you agree it
9 sounds like a lot of advantages here for a sex offender?

10 REVEREND MORRISEY: No. I would say it's a
11 lot of protection and it's to avoid exactly hype and so on.
12 You look and see is there really a foundation to this.
13 You're destroying another life too and you've got to just
14 make sure before you do it that you're acting prudently.

15 MR. TALACH: More protections here -- I'm
16 using your word protections -- for the offender than in
17 secular society, you would agree?

18 REVEREND MORRISEY: Because he's
19 incardinated in the diocese. He has got no pension plan.
20 In most cases, he's got nothing to go to. He's got no
21 home. He's -- he depends totally on the diocese for
22 everything.

23 MR. TALACH: You use the word "destruction
24 of a life"; is that true?

25 REVEREND MORRISEY: Yes.

1 **MR. TALACH:** You appreciate what childhood
2 sexual abuse by a priest does to victims?

3 **REVEREND MORRISEY:** That's a completely
4 different thing. I'm talking about a priest right now. I
5 recognize all the rest.

6 **MR. TALACH:** One last area. Are you
7 familiar with the concept mental reservation?

8 **REVEREND MORRISEY:** Yes.

9 **MR. TALACH:** Describe that to us.

10 **REVEREND MORRISEY:** It's being economical
11 with the truth.

12 **MR. TALACH:** Okay. So I understand it to be
13 that when someone doesn't have the right to ask you a
14 question, you aren't obliged to tell them the full truth.

15 s that a fair summary?

16 **REVEREND MORRISEY:** Yes, yes.

17 **MR. TALACH:** And what do they mean by the
18 right? The legal right or the moral right?

19 **REVEREND MORRISEY:** It's going to depend on
20 the circumstances.

21 **MR. TALACH:** So there's a bit of discretion
22 there?

23 **REVEREND MORRISEY:** Well it is going to
24 depend on the type of question. Like Canon 530 is going to
25 say a superior of a religious order can never ask any

1 member for a manifestation of conscience.

2 **MR. TALACH:** But outside issues of
3 conscience, and outside within the Church, this concept of
4 mental reservation can be applied to interaction with
5 secular authorities, correct?

6 **REVEREND MORRISEY:** That's not a canon law,
7 that's a moral theology principle.

8 **MR. TALACH:** Right, but it can ---

9 **REVEREND MORRISEY:** So it is not in the
10 Code.

11 **MR. TALACH:** --- be applied outside the
12 Church?

13 **REVEREND MORRISEY:** It could be applied.

14 **MR. TALACH:** Is it in a sense a doctrine
15 that kind of justifies being untruthful to a degree?

16 **REVEREND MORRISEY:** It is going to depend on
17 the circumstances. Again, you don't have to say
18 everything.

19 **MR. TALACH:** Can it apply under oath?

20 **REVEREND MORRISEY:** It's going to depend
21 what the oath is and what the question was that you were
22 asked.

23 **MR. TALACH:** Okay. I take it that there is
24 no mental reservation in your answers here today.

25 **REVEREND MORRISEY:** I hope not.

1 **MR. TALACH:** Okay. Those are all my
2 questions. Thank you Father Morrissey.

3 **REVEREND MORRISEY:** That's good. Thank you.

4 **THE COMMISSIONER:** Thank you.

5 Mr. Chisholm.

6 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

7 **CHISHOLM:**

8 **MR. CHISHOLM:** Good afternoon, Mr.
9 Commissioner. Good afternoon, Father Morrissey. My name is
10 Peter Chisholm. I am counsel for the local Children's Aid
11 Society.

12 If I can, a few questions to you. You spoke
13 yesterday to your knowledge concerning the duty to report
14 suspicions of child abuse.

15 **REVEREND MORRISEY:** Yes.

16 **MR. CHISHOLM:** So you are aware there's a
17 provincial law in place in Ontario as well as many other
18 jurisdictions across the country ---

19 **REVEREND MORRISEY:** Yes.

20 **MR. CHISHOLM:** --- to report ---

21 **REVEREND MORRISEY:** Yes.

22 **MR. CHISHOLM:** --- to the authorities.

23 Right?

24 **REVEREND MORRISEY:** Yes.

25 **MR. CHISHOLM:** And you understand that that

1 duty is directed to all people and speaking of the duty in
2 Ontario, all people in Ontario?

3 **REVEREND MORRISEY:** Except lawyers, yes.

4 **MR. CHISHOLM:** Well, and with respect to
5 lawyers, would you agree with me that the lawyers are
6 exempted in areas of privilege but certainly not all areas
7 of life. Would you agree with that?

8 **REVEREND MORRISEY:** Yes, I hope so.

9 **MR. CHISHOLM:** Would you agree with me that
10 in Ontario, it is an offence not to make a report when you
11 acquire that knowledge in your professional capacity?

12 **REVEREND MORRISEY:** Yes.

13 **MR. CHISHOLM:** Mr. Talach was asking you
14 questions today with respect to the duty to report and, if
15 I understand the question that was put to you and your
16 answer, you were saying that in a case where a person is
17 over the age of 16 years, let's take the hypothetical,
18 someone who is over the age of 16 years who was abused by a
19 priest, was it your answer to Mr. Talach today that the law
20 does not impose an obligation to report?

21 **REVEREND MORRISEY:** And I'm not a civil
22 lawyer. So you'd have to ask someone who knows that law,
23 what the obligation is.

24 **MR. CHISHOLM:** Would your answer have
25 changed if that priest was serving a particular parish and

1 involved with young persons -- other young persons?

2 **REVEREND MORRISEY:** If the case is still
3 going on today or was it past case?

4 **MR. CHISHOLM:** Well, I'm speaking of a past
5 case, you come to suspect that priest abused that person
6 who is now, say 17 years old, I believe was the example Mr.
7 Talach used.

8 **REVEREND MORRISEY:** Yeah.

9 **MR. CHISHOLM:** But let's assume that that
10 priest is still in a parish -- serving a parish, which
11 would include young persons below the age of 16?

12 **REVEREND MORRISEY:** What I would do in a
13 case like that, if the person of 17 has come; I would
14 encourage this person to take the steps with him, that this
15 person make the appropriate denunciations.

16 **MR. CHISHOLM:** To the Children's Aid
17 Society?

18 **REVEREND MORRISEY:** Children's Aid -- you
19 know, depending on the province, whatever the official
20 group is.

21 **MR. CHISHOLM:** But you yourself, would you
22 take that step and contact the Children's Aid Society in
23 that case?

24 **REVEREND MORRISEY:** If it was not a
25 reportable case, unless it's one of those ones where the

1 bishop has made an agreement that all cases will be brought
2 forward.

3 **MR. CHISHOLM:** Well, you say it's not
4 reportable and you are saying, in this example, it's not
5 reportable because the person is 17 years old. Is that
6 right?

7 **REVEREND MORRISEY:** Yeah, not mandatory
8 reportable. Anybody can report, if I'm not mistaken.

9 **MR. CHISHOLM:** When you are saying
10 "mandatory", you're -- "mandatorily reportable"; you are
11 speaking of the obligation under the Child Protection
12 Legislation?

13 **REVEREND MORRISEY:** Yes.

14 **MR. CHISHOLM:** If I could take you please to
15 Tab 8 of Exhibit 632 and that is the article that you wrote
16 in 2006 entitled Confidentiality Archives and Record
17 Management. Is that right?

18 **REVEREND MORRISEY:** Yes.

19 **MR. CHISHOLM:** If I could take you to page
20 10 please. And at the bottom of page 10, you speak of the
21 seal of confession.

22 **REVEREND MORRISEY:** Yes.

23 **MR. CHISHOLM:** And you make reference to
24 Canon 983 and say "The confessional seal is inviolable" and
25 then you cite Canon 1386 that:

1 "A proposition of the person who
2 directly violates the sacramental seal
3 incurs an automatic excommunication."

4 **REVEREND MORRISEY:** Yes.

5 **MR. CHISHOLM:** And tell me about just
6 briefly the automatic excommunication, does that arise --
7 when you say automatically, does it require the action of
8 the Holy See?

9 **REVEREND MORRISEY:** No. It's -- that's one
10 of those cases, they call it in Latin *late sententia*, the
11 sentence has already been handed down. If you do this,
12 that's what happens.

13 **MR. CHISHOLM:** So without any person,
14 without any person within the Church administering a
15 penalty, as soon as you breach the seal, that's the
16 automatic excommunication?

17 **REVEREND MORRISEY:** That's it, yes.

18 **MR. CHISHOLM:** And you would agree with me
19 there's a potential conflict between the secular law, which
20 would include the duty to report, and the canon law with
21 respect to the seal of confession?

22 **REVEREND MORRISEY:** Yes.

23 **MR. CHISHOLM:** You have been at St. Paul's
24 University in Ottawa for a number of years. Is that right?

25 **REVEREND MORRISEY:** Yes.

1 **MR. CHISHOLM:** Can you tell me what, if
2 anything, the seminarians are taught when they're at the
3 seminary in terms of if they were to find themselves in a
4 situation between a conflict with the canon law and a
5 conflict with the duty to report?

6 **REVEREND MORRISEY:** They observe the canon
7 law in this case. This is -- it's the only Canon in the
8 Code that says that this is inviolable, for which there are
9 no exceptions.

10 **MR. CHISHOLM:** So are the seminarians
11 specifically taught that?

12 **REVEREND MORRISEY:** Yes. At least they were
13 when I was teaching them.

14 **MR. CHISHOLM:** And have you or your peers
15 ever written about this conflict in your writings?

16 **REVEREND MORRISEY:** Well, there's been a
17 number of books written, Abington Press in Nashville, The
18 Right to Silence, which took the laws of the various states
19 and provinces and territories and showing how the seal of
20 confession has been upheld in the courts.

21 Quebec and Newfoundland have a special
22 statute giving protection to the seal of confession at all
23 costs for everything. The other provinces don't have that,
24 but we have a common law tradition that goes through there
25 and is used at times.

1 **MR. CHISHOLM:** I'm sorry? A common law?

2 **REVEREND MORRISEY:** Tradition.

3 **MR. CHISHOLM:** Tradition. To be applied on
4 a case-by-case basis?

5 **REVEREND MORRISEY:** Exactly. And that's why
6 The Right to Silence is one of the better ones in that
7 analyses all the legislation in that regard and with cases.

8 **MR. CHISHOLM:** Do you know if any efforts
9 have ever been made within the Catholic Church to try and
10 harmonize the canon law with the secular law?

11 **REVEREND MORRISEY:** Well, if the secular law
12 wants to change, fine, but the canon law won't change.
13 That one is -- it's inviolable. It's been there from the
14 very beginning of the Church.

15 **MR. CHISHOLM:** So there have been no efforts
16 made by the Church that you are aware of?

17 **REVEREND MORRISEY:** No. No.

18 **MR. CHISHOLM:** And just touching on the
19 issue of what seminarians are taught again. They are
20 taught to uphold the canon law. Right?

21 **REVEREND MORRISEY:** They are taught to
22 uphold that Canon.

23 **MR. CHISHOLM:** Okay. Do you know if the
24 seminarians are ever taught about the duty to report
25 contained in the secular law?

1 **REVEREND MORRISEY:** I've never -- see, I
2 haven't been teaching seminarians now for the last certain
3 number of years. I'm just teaching graduate students and
4 so I don't know what's being taught at this moment on that,
5 but I'm going to presume -- I'm going to presume that they
6 are taught that.

7 **MR. CHISHOLM:** That they are taught?

8 **REVEREND MORRISEY:** Yes.

9 **MR. CHISHOLM:** If I can speak to you about
10 the sacrament of confession or reconciliation. After a
11 person would confess their sins to a priest, the priest
12 would impose a particular penance; is that right?

13 **REVEREND MORRISEY:** Yes.

14 **MR. CHISHOLM:** Are there any limitations on
15 the priest's ability to impose a penance?

16 **REVEREND MORRISEY:** Well, the penance has to
17 be proportionate. It has to have as its effect the
18 amendment of the sinner, you know, in relation to what was
19 brought forward.

20 **MR. CHISHOLM:** And would there be anything -
21 - any restriction on a priest's ability in a case where a
22 person partakes in a confession and indicates that they've
23 committed an incident of child sexual abuse -- would there
24 be anything preventing you, as suggesting a penance, that
25 that person go to the Children's Aid Society and advise the

1 authorities what they have done?

2 **REVEREND MORRISEY:** I would never give that
3 as a penance. But what you would try to do is that you
4 would try to say to the person, "Can we talk outside the
5 confession? Can we see how can this be addressed and what
6 can be done?"

7 **MR. CHISHOLM:** And you would not give that
8 as a penance. Can I ask why?

9 **REVEREND MORRISEY:** I wouldn't give that as
10 a penance because it's something contingent and something
11 outside completely. And I don't know if a person has to
12 incriminate themselves in Canada. I doubt it.

13 **MR. CHISHOLM:** And with respect to what you
14 said about you would try to speak to that person outside
15 the confessional.

16 **REVEREND MORRISEY:** Because the problem is
17 much deeper than who is going to denounce or report. It's
18 a much more serious thing than that.

19 **MR. CHISHOLM:** Just tell me what your
20 purpose would be in speaking to them outside the
21 confessional. What would your goals be in speaking to
22 them?

23 **REVEREND MORRISEY:** Well, first of all, what
24 kind of help can we get for that person?

25 **MR. CHISHOLM:** Yes.

1 **REVEREND MORRISEY:** And what is the
2 situation and what can we do to prevent it from happening
3 in the future?

4 **MR. CHISHOLM:** But speaking to them outside
5 of the confessional, one of your goals would not be to form
6 a suspicion based upon reasonable grounds that that person
7 has committed a child sexual offence?

8 **REVEREND MORRISEY:** Okay. Well, you see, if
9 I'm not the delegate of the bishop, it's not my role to
10 have -- formulate suspicion or reasonable grounds. That's
11 -- you see, it's going to depend in what function I'm
12 talking to this person.

13 **MR. CHISHOLM:** But regardless of whether
14 that is your role, assume you do form those reasonable
15 grounds, or form the suspicion based upon the reasonable
16 grounds, regardless of whether or not you're the bishop's
17 delegate?

18 **REVEREND MORRISEY:** But see, then in that
19 case, if I were meeting somebody outside the confessional,
20 I would tell them, "Don't forget; anything you tell me, if
21 this is something that's subject to these laws and you've
22 told me outside of this, then you have to take the ..." But
23 see, I didn't get that from confessional knowledge. I'm
24 getting this from outside.

25 **MR. CHISHOLM:** So ---

1 REVEREND MORRISEY: I would have no choice.

2 MR. CHISHOLM: So in that case the canon law
3 would present no difficulty to a priest to comply with the
4 duty to report?

5 REVEREND MORRISEY: No, because it's not in
6 confession.

7 MR. CHISHOLM: At page 11 of your article
8 that I had referred you to, you speak of the secret of the
9 Holy Office and you make reference to the -- on the fourth
10 line in the March 16, 1962 instruction. That is the
11 instruction we've seen that you've discussed earlier today
12 and yesterday?

13 REVEREND MORRISEY: Yes.

14 MR. CHISHOLM: It's a revision of the 1922
15 instruction. Is that right?

16 REVEREND MORRISEY: Yes.

17 MR. CHISHOLM: If I could take you back to
18 1962, you've told us about the -- can I use the word
19 "secrecy" surrounding this document, this instruction?

20 REVEREND MORRISEY: Yes.

21 MR. CHISHOLM: Who at the Vatican would have
22 known of the existence of this instruction in terms of --
23 let's talk about rank. Would the Pope have known about
24 this instruction?

25 REVEREND MORRISEY: Well, quite possibly,

1 but you see, it was in '62. That was John XXIII that was
2 Pope. We're four popes later. Whether any of the other
3 ones was actually involved in this type of nitty gritty, I
4 just couldn't tell you.

5 **MR. CHISHOLM:** That's fair.

6 But it's not -- if you had to hazard a
7 guess, would you expect that John XXIII would have known of
8 this instruction?

9 **REVEREND MORRISEY:** Well, he's the one that
10 ordered it to be published, but ---

11 **MR. CHISHOLM:** So there's no doubt in your
12 mind the Pope knew about it?

13 **REVEREND MORRISEY:** That he knew about it at
14 that time, yes.

15 **MR. CHISHOLM:** The question is what --
16 you're not sure whether his successors would have known of
17 the 1962 instructions?

18 **REVEREND MORRISEY:** Yes, whether they would
19 have been directly involved with it or not.

20 **MR. CHISHOLM:** You know that Cardinal
21 Ratzinger knew about the instructions?

22 **REVEREND MORRISEY:** Well, yes, because he
23 refers to it in the footnote in this, his 19 -- his 2001
24 letter.

25 **MR. CHISHOLM:** And you discuss, I believe,

1 excommunication -- automatic excommunication with respect
2 to -- with respect to violating the secrecy. Is that
3 right?

4 **REVEREND MORRISEY:** Yes.

5 **MR. CHISHOLM:** Now, just tell me -- you
6 spoke about it this morning -- this secrecy comes into play
7 at which point? That's what I want you to answer.

8 Let's take the case of a young person who
9 has been abused by a priest. If I understand your evidence
10 from this morning, that person can go to civil authorities,
11 the police or the Children's Aid Society and make a
12 complaint about the particular priest without risk of
13 excommunication. Is that right?

14 **REVEREND MORRISEY:** Of course, and that's
15 what I hope they'll do.

16 **MR. CHISHOLM:** It's only once the canonical
17 process is started that this instruction comes into play?
18 Is that your evidence?

19 **REVEREND MORRISEY:** Yes, once the formal
20 canonical process, not the preliminaries.

21 **MR. CHISHOLM:** On to page 13 of your
22 article, you speak of -- on page 13, under the heading "The
23 Right to One's Reputation" and in subparagraph 1 you speak
24 of -- you write about:

25 "The diocese should not be making

1 public the names of the priests accused
2 of actions with minors until the
3 secular or Church trial has been held
4 and a decision given."

5 Is there a canon that would suggest that the
6 accusation not be publicized pending the results of the
7 secular trial?

8 **REVEREND MORRISEY:** Well, it's just the
9 interpretation that has been given to Canon 220. You see,
10 once the cat's out of the bag, it's almost impossible
11 afterwards to bring it back.

12 **MR. CHISHOLM:** And Canon 220 relates to the
13 right of privacy?

14 **REVEREND MORRISEY:** The right of privacy and
15 the right to reputation.

16 **MR. CHISHOLM:** Reputation of the priest?

17 **REVEREND MORRISEY:** Of any person.

18 **MR. CHISHOLM:** With respect to the
19 suggestion that the name not be made public, can I assume
20 that that is to protect the reputation of the priest in
21 question?

22 **REVEREND MORRISEY:** Yes. Well, it's that
23 and also to see -- you notice I keep saying in the rest of
24 that paragraph that it should not be made public until the
25 trial has been held. Then at that moment it becomes

1 public. But until you're sure that there's an issue there,
2 that becomes very difficult. You can get a crank phone
3 call. Does that mean that you immediately set everything
4 in operation? You look and see, is there something to
5 this.

6 **MR. CHISHOLM:** But does it state beyond the
7 crank phone call and the end of a trial, where you may be -
8 - you, as an individual observing this, may be pretty sure
9 of what the outcome of that trial is going to be. Is that
10 fair to say?

11 **REVEREND MORRISEY:** In most cases you have a
12 pretty good idea. Otherwise, you don't start the trial if
13 you don't know if you have enough evidence. If there's not
14 enough potential evidence, you're not going to go the route
15 of a trial.

16 **MR. CHISHOLM:** Do you see any risk to the
17 community in adopting that approach of maintaining the
18 secrecy of the name of the priest who is accused of
19 committing the child sexual offence?

20 **REVEREND MORRISEY:** Well, until the priest
21 has been found guilty. See, we always used to say a person
22 was innocent until proven guilty. But right now that's the
23 one area where you're guilty until you try to prove your
24 own innocence. We've shifted the tables around on this.
25 So the priest is on the -- or any person, the teacher in

1 the school -- I mean, it's much worse for the teachers than
2 it is for the priests. You're on the defensive after that.
3 How do you prove your innocence?

4 **MR. CHISHOLM:** You speak, in subparagraph
5 (2) at the bottom of page 13 you speak of -- you speak or
6 write about letters of recommendation and talk about cases
7 where persons have been dismissed from another seminary or
8 from another religious institution.

9 **REVEREND MORRISEY:** M'hm.

10 **MR. CHISHOLM:** And you speak of the need for
11 further testimony required from their respective superior?

12 **REVEREND MORRISEY:** Yes.

13 **MR. CHISHOLM:** Would this canon apply with
14 respect to a priest who is dis-incardinated?

15 **REVEREND MORRISEY:** Yes, ex-cardinated, yes.

16 **MR. CHISHOLM:** Ex, sorry, ex.

17 **REVEREND MORRISEY:** Yes. If a priest was
18 leaving today you have to -- even just basic prudence, you
19 have to get you know the appropriate information on them.

20 **MR. CHISHOLM:** I'd like to take you on page
21 14, please, the top paragraph and the fourth line from the
22 bottom:

23 "But if the information is strictly
24 confidential or on a level of the
25 internal form, then it cannot be

1 communicated no matter how advantageous
2 it would be to have access to it."

3 So that does mean that a priest could be
4 removed from one diocese and seek to be employed in another
5 diocese, depending on what his superior knows and the
6 manner in which that superior obtained the information, it
7 could not be communicated to the bishop in the other
8 diocese?

9 **REVEREND MORRISEY:** No, what would be
10 communicated is that this priest was removed from office.
11 And since you know that if anyone is removed from office
12 there has to be a serious cost. If you saw that; it's not
13 only one red flag that is raised. It's a whole set.
14 Usually, you don't have to go any further.

15 **MR. CHISHOLM:** And your understanding is --
16 your position is that superior cannot go any further if the
17 information was obtained in the manner that you described
18 in your article?

19 **REVEREND MORRISEY:** Well, he'd be foolish to
20 go any further. If you can't get a good solid
21 recommendation on a person today you just wouldn't touch
22 them.

23 **MR. CHISHOLM:** You spoke yesterday with Mr.
24 Wardle, the gentlemen in the second row ---

25 **REVEREND MORRISEY:** Yes.

1 **MR. CHISHOLM:** --- about the fact that each
2 Canadian diocese has a delegate and -- do you recall the
3 reference to the delegate?

4 **REVEREND MORRISEY:** Yes.

5 **MR. CHISHOLM:** And am I right that is the
6 same -- the delegate is the bishop's delegate that is
7 referred to in From Pain to Hope?

8 **REVEREND MORRISEY:** Yes.

9 **MR. CHISHOLM:** That's the context that
10 you're referring to the delegate, right.

11 And yesterday you indicated that any priest
12 who receives information outside of the confessional will
13 direct that information to the bishop's delegate; is that
14 right?

15 **REVEREND MORRISEY:** It usually goes to the
16 delegate.

17 **MR. CHISHOLM:** And just so I'm clear, the
18 information that you were referring to yesterday in your
19 discussion with Mr. Wardle, that was -- was that related to
20 information concerning child sexual abuse?

21 **REVEREND MORRISEY:** Among other things, yes.

22 Could I just add something to a question
23 that I was asked earlier, in the line of saying the
24 delegate -- or say the delegate is untrained, is that every
25 year there are now meetings of all the bishops' delegates.

1 Most of them are held in the U.S. with ongoing training and
2 so on with that, that they're -- so that it's not just
3 somebody I picked out of the blue. And those are pretty
4 important meetings, that they have, the bishops'
5 representatives for clergy cases.

6 **MR. CHISHOLM:** And yesterday you told Mr.
7 Wardle that the delegates, the bishops' delegates would be
8 aware of the legal ramifications and know about the things
9 that had to be done?

10 **REVEREND MORRISEY:** That's the person who is
11 entrusted with this file, if I can use that word, or this
12 sector and then, you know, you prepare yourself
13 accordingly.

14 **MR. CHISHOLM:** And were you speaking of the
15 duty to report whenever you spoke of the things the
16 delegate would know that had to be done?

17 **REVEREND MORRISEY:** Yes, and usually in
18 dioceses where we have made arrangements with the reporting
19 authorities, the arrangements are through and with the
20 delegate so that there is a communication -- you know, a
21 line of communication that's setup.

22 **MR. CHISHOLM:** With respect to your
23 understanding of how the delegate would work once he
24 obtained that information from the priest; what would you
25 assume -- you spoke of reportable cases yesterday ---

1 REVEREND MORRISEY: Yes.

2 MR. CHISHOLM: --- with Mr. Wardle? You
3 were speaking in what context of reportable?

4 REVEREND MORRISEY: Okay. No, I think --
5 I've never been a bishop's delegate and so I can't say
6 exactly how they are going to proceed at a given moment.
7 You'd almost have to ask somebody, you know, who is
8 directly in that area.

9 MR. CHISHOLM: That's fair. But with
10 respect to what you were discussing about -- what you were
11 talking to Mr. Wardle about yesterday; was it your
12 expectation that the bishop's delegate would make the
13 report to the Children's Aid Society?

14 REVEREND MORRISEY: If it has not already
15 been done, yes.

16 MR. CHISHOLM: And with respect to relieving
17 the priest, you told the bishop's delegate of the
18 obligation to report. What is your view on that? Would
19 the priest still have an obligation to report?

20 REVEREND MORRISEY: If he mentions it to the
21 delegate, yes. Possibly the two together would go.

22 MR. CHISHOLM: But you're aware that the
23 Ontario legislation requires that the person informs the
24 suspicion based upon reasonable grounds ---

25 REVEREND MORRISEY: Yes.

1 **MR. CHISHOLM:** --- has to be the one to make
2 the report?

3 **REVEREND MORRISEY:** Yes.

4 **MR. CHISHOLM:** With respect to the -- you
5 spoke of the seal of the confession -- are there any other
6 confidences that would interfere with the secular duty to
7 report, that you're aware of within canon law or the
8 operations of the Church?

9 **REVEREND MORRISEY:** If something were
10 recognized civilly as being privileged, then you'd have to
11 check and see which prevails.

12 **MR. CHISHOLM:** But in terms of -- you are
13 speaking of a common law privilege?

14 **REVEREND MORRISEY:** Yes.

15 **MR. CHISHOLM:** But apart from a common law
16 privilege; is there anything within -- any confidences
17 within -- apart from the seal of the confession -- within
18 canon law that would impede a priest from carrying out the
19 duty to report contained in the secular law?

20 **REVEREND MORRISEY:** No. And see canon law
21 is not going to -- the Code of Canon Law doesn't talk about
22 the duty of reporting because that's ---

23 **MR. CHISHOLM:** Right.

24 **REVEREND MORRISEY:** --- that's a secular
25 obligation.

1 **MR. CHISHOLM:** So there would be no other,
2 apart from the seal of the confession?

3 **REVEREND MORRISEY:** That's the only one that
4 I can think of at this moment.

5 **MR. CHISHOLM:** Father, I want to thank you
6 very much for the evidence you have given today and
7 yesterday. I found your evidence to be quite instructional
8 and I'd like to thank you very much for coming.

9 **REVEREND MORRISEY:** Thank you.

10 **THE COMMISSIONER:** Thank you.

11 We'll take the lunch break -- hopefully --
12 no?

13 **MR. ENGELMANN:** Sir, I don't know how much
14 time we have left. I know Father Morrissey has a commitment
15 this afternoon and really hoping that counsel ---

16 **THE COMMISSIONER:** What time is your
17 commitment for?

18 **REVEREND MORRISEY:** It's three o'clock with
19 lawyers.

20 **MR. ENGELMANN:** I don't think there is -- I
21 think there is perhaps just Mr. Sherriff-Scott left.

22 **THE COMMISSIONER:** Okay. Well, let's see.
23 Ms. Im -- I'm sorry, Mr. Rose?

24 **MR. ROSE:** Good afternoon, Father Morrissey.
25 On behalf of the Ministry of Community Safety and

1 Correctional Services I have no questions. Thank you for
2 coming.

3 **REVEREND MORRISEY:** Thank you.

4 **THE COMMISSIONER:** Thank you.

5 Ms. Im.

6 **MS. IM:** No questions from the Ministry of
7 the Attorney General. Thank you.

8 **THE COMMISSIONER:** Thank you.

9 Ms. Robitaille.

10 **MS. ROBITAILLE:** No questions.

11 **THE COMMISSIONER:** No questions.

12 Mr. Crane.

13 **MR. CRANE:** Nothing, thank you.

14 **THE COMMISSIONER:** Thank you.

15 Ms. Brannan.

16 **MS. SACCOCCI-BRANNAN:** The Ontario
17 Provincial Police have no questions.

18 **THE COMMISSIONER:** Thank you.

19 Mr. Carroll.

20 **MR. CARROLL:** The OPP have no questions.

21 **THE COMMISSIONER:** All right.

22 No one here from the school boards.

23 All right. So Mr. Sherriff-Scott, how long
24 do you think you're going to be?

25 **MR. SHERRIFF-SCOTT:** About 25 minutes.

1 THE COMMISSIONER: Okay. Let's go.

2 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
3 SHERRIFF-SCOTT:

4 MR. SHERRIFF-SCOTT: Good afternoon, Father
5 Morrisey.

6 REVEREND MORRISEY: Hello.

7 MR. SHERRIFF-SCOTT: We have met before.

8 REVEREND MORRISEY: Yes.

9 MR. SHERRIFF-SCOTT: To just try and clarify
10 some points with you, starting really with clarifying the
11 powers of the bishop as they progressed over time and as
12 they are crystallized today, because I think there is some
13 confusion on the record.

14 First of all, if we can back up and just
15 trace this quickly. The Council of Trent allowed a bishop
16 to proceed by way of informed conscience?

17 REVEREND MORRISEY: Correct.

18 MR. SHERRIFF-SCOTT: And that gave a bishop
19 virtually unlimited discretion with the exception of
20 dismissal from the cleric state?

21 REVEREND MORRISEY: Yes, especially for
22 cases leading to suspension.

23 MR. SHERRIFF-SCOTT: Right. And so he had
24 discretion to suspend, to force a person to live in a
25 certain place?

1 **REVEREND MORRISEY:** Yes, because then the --
2 if he were suspended, he could not carry out his functions
3 and so he has to leave the place for somebody else to come
4 and take them.

5 **MR. SHERRIFF-SCOTT:** And there were a host
6 of other things that the bishop can impose in terms of
7 administrative decree and remedy ---

8 **REVEREND MORRISEY:** Yes.

9 **MR. SHERRIFF-SCOTT:** --- pursuant to that
10 power. Okay.

11 So from a practical point of view, in that
12 period, there was a very broad range of administrative
13 power to a bishop to punish by way of administrative
14 actions?

15 **REVEREND MORRISEY:** The word we use in canon
16 law was discretionary power.

17 **MR. SHERRIFF-SCOTT:** Fair enough.
18 No right to appeal back then?

19 **REVEREND MORRISEY:** No.

20 **MR. SHERRIFF-SCOTT:** And superiors and
21 provincials had the same power as a bishop in that regard
22 or did they not?

23 **REVEREND MORRISEY:** No, in those days, there
24 were two types of orders. There were what they called
25 exempt orders and non-exempt. The exempt ones had that

1 power, but it's such a technicality and it's ---

2 **MR. SHERRIFF-SCOTT:** Okay. So that's the
3 State of the Union, if I can use that expression, until
4 1917 when the code is first promulgated in a draft form,
5 collected all together. Correct?

6 **REVEREND MORRISEY:** Yes, '17 wasn't a draft.

7 **MR. SHERRIFF-SCOTT:** No, no.

8 **REVEREND MORRISEY:** Seventeen ('17) was the
9 promulgated -- yeah ---

10 **MR. SHERRIFF-SCOTT:** It was the promulgation
11 of all of the canons together in one place for the first
12 time?

13 **REVEREND MORRISEY:** Yes.

14 **MR. SHERRIFF-SCOTT:** And it confirmed the
15 approach of the Council of Trent at least in part?

16 **REVEREND MORRISEY:** Yes.

17 **MR. SHERRIFF-SCOTT:** And Canon 2186 gave the
18 bishop the same sort of untrammelled -- not untrammelled,
19 but discretion to impose a range of penalties, except
20 dismissal from the clerical state?

21 **REVEREND MORRISEY:** Which called for a
22 trial.

23 **MR. SHERRIFF-SCOTT:** A canonical trial?

24 **REVEREND MORRISEY:** Yes.

25 **MR. SHERRIFF-SCOTT:** Okay. And the bishop's

1 discretion to use administrative powers did not require a
2 hearing, and there were no procedural protections afforded?

3 REVEREND MORRISEY: Exactly.

4 MR. SHERRIFF-SCOTT: Okay. And we have in
5 1922 the instruction. But before we get to that, there
6 were questions by Mr. Talach on Canon 2354, and I take it,
7 if I can just turn up the 1917 Code, my tabs are different
8 than yours unfortunately. What tab is yours, 26?

9 The canons that I just -- do you have that,
10 Father?

11 REVEREND MORRISEY: Yes.

12 MR. SHERRIFF-SCOTT: The Canons that we've
13 just referred to by way of empowering a bishop were 2186,
14 2187, et cetera?

15 REVEREND MORRISEY: Yes.

16 MR. SHERRIFF-SCOTT: That's correct. And
17 then you were asked about the Canon 2354 at page 747, which
18 is the last page of the tab and although the Canon
19 indicates that the ordinary -- excuse me, the cleric would
20 be punished pursuant to a canonical proceeding, bishops
21 still had discretionary powers and remedies that could be
22 employed?

23 REVEREND MORRISEY: Yes, they had -- but
24 again, you have to look at the type of case.

25 MR. SHERRIFF-SCOTT: Okay. Fair enough. So

1 they're not necessarily mutually exclusive?

2 **REVEREND MORRISEY:** No.

3 **MR. SHERRIFF-SCOTT:** Thank you. And so that
4 remained the case until we have 1922 instruction. Correct?

5 **REVEREND MORRISEY:** Yes.

6 **MR. SHERRIFF-SCOTT:** And the instruction,
7 although not published in the *Acta Apostolicae* was still --
8 had the binding effect on procedure?

9 **REVEREND MORRISEY:** Exactly; the procedure
10 not the substantive law.

11 **MR. SHERRIFF-SCOTT:** So it didn't alter the
12 substantive law?

13 **REVEREND MORRISEY:** No.

14 **MR. SHERRIFF-SCOTT:** So bishops still had
15 residual sort of plenary power to punish by administrative
16 action?

17 **REVEREND MORRISEY:** Yes.

18 **MR. SHERRIFF-SCOTT:** Okay. And you told us
19 that, in fact, that is what the circumstance was and how it
20 was handled by and large, to your knowledge.

21 **REVEREND MORRISEY:** As far as I know, yes.

22 **MR. SHERRIFF-SCOTT:** Tribunals did not
23 operate significantly from your investigations until the
24 late 1940s and following?

25 **REVEREND MORRISEY:** That's when they were

1 really formally organized in Canada.

2 **MR. SHERRIFF-SCOTT:** Okay. And so,
3 therefore, the bishop's power to punish in this
4 administrative fashion persisted notwithstanding a 1922
5 document?

6 **REVEREND MORRISEY:** Exactly.

7 **MR. SHERRIFF-SCOTT:** Okay. The 1962
8 document was also not published in the *Acta Apostolicae*.
9 Correct?

10 **REVEREND MORRISEY:** *Apostolicae*, yes.

11 **MR. SHERRIFF-SCOTT:** Yes, thank you. And it
12 nevertheless was binding?

13 **REVEREND MORRISEY:** As the '22 one was, yes.

14 **MR. SHERRIFF-SCOTT:** Okay, and the basis for
15 your opinion that it may not have been distributed in
16 accordance with the face page is that you, on your
17 investigations, were not able to locate a copy in various
18 dioceses in Canada?

19 **REVEREND MORRISEY:** That was my experience.

20 **MR. SHERRIFF-SCOTT:** Okay. And again that
21 document didn't change the substantive law?

22 **REVEREND MORRISEY:** No.

23 **MR. SHERRIFF-SCOTT:** It was a procedural
24 document?

25 **REVEREND MORRISEY:** It was -- exactly.

1 **MR. SHERRIFF-SCOTT:** And so the bishop's
2 discretion for a range of penalties remained unaltered, at
3 least practically speaking?

4 **REVEREND MORRISEY:** Practically speaking,
5 exactly.

6 **MR. SHERRIFF-SCOTT:** And that persisted
7 until 1983, which is the new Code?

8 **REVEREND MORRISEY:** Yes.

9 **MR. SHERRIFF-SCOTT:** And Canon 6 of that
10 Code says that all prior laws are repealed?

11 **REVEREND MORRISEY:** Yes.

12 **MR. SHERRIFF-SCOTT:** And it is your opinion
13 as a canonist that that effectively repealed the 1962
14 document?

15 **REVEREND MORRISEY:** You see, that's what
16 most of us took for granted. Now, if I take Canon 6 of the
17 new Code, there's just one little point. It says:

18 "When this Code comes into force, the
19 following were abrogated: The 1917
20 Code of Canon Law and other laws,
21 whether universal or particular, which
22 are contrary to this Code, all penal
23 laws exacted but enacted by the Holy
24 See, unless they're taken up in the new
25 Code ..."

1 And then it's the last one:

2 "Other universal disciplinary laws
3 concerning matters which are integrally
4 reordered in the Code".

5 Now, you see, this is an instruction. It's
6 not a law and so some are saying it doesn't come
7 under Canon 6.

8 **MR. SHERRIFF-SCOTT:** Okay, so there's a
9 genuine academic debate to the status of it being repealed
10 from the period of 1983 forward?

11 **REVEREND MORRISEY:** Yes. And Cardinal
12 Ratzinger was of the opinion that it was still in effect.

13 **MR. SHERRIFF-SCOTT:** Okay. Others disagree
14 with him?

15 **REVEREND MORRISEY:** Disagreed in the past.

16 **MR. SHERRIFF-SCOTT:** Yeah, okay.

17 **(LAUGHTER/RIRES)**

18 **MR. SHERRIFF-SCOTT:** Now, just to clarify
19 the powers of a bishop and their overlap with the 2001 and
20 2002 matters, if we could turn up the 1983 Code?

21 **THE COMMISSIONER:** What ---

22 **MR. SHERRIFF-SCOTT:** I'm sorry I don't have
23 the tab, Commissioner. My tabs are organized differently.

24 **MR. ENGELMANN:** Tab 27.

25 **THE COMMISSIONER:** Thank you.

1 **MR. SHERRIFF-SCOTT:** Thank you.

2 The other thing I need to turn up, sir, is
3 one of your articles, and I'll just grab that, which is
4 addressing the issue of clergy abuse, 2001, Tab 7, if we
5 could start there.

6 My friend, Mr. Wardle, questioned you on
7 this, and I would like you to turn to the bottom of page
8 413. This is on the question of graduated penalty
9 approach. Are you with me there?

10 **REVEREND MORRISEY:** I'm on page 413.

11 **MR. SHERRIFF-SCOTT:** Okay and at the bottom
12 right margin, you talk about the concept of eventual return
13 to ministry as well as, over on the top of the next page,
14 about current appeals from the public, at least about
15 immediate imposition of the dismissal from the clerical
16 state as a remedy.

17 **REVEREND MORRISEY:** Yes.

18 **MR. SHERRIFF-SCOTT:** So when you are using
19 this, we are having this discussion at the top of 414 and
20 talking about Canon 1395. Your discussion is situated in
21 an analysis of dismissal from the clerical state. Is that
22 correct?

23 **REVEREND MORRISEY:** Yes.

24 **MR. SHERRIFF-SCOTT:** And so the imperative
25 in 1395 is that prior to dismissal from the clerical state,

1 there must be a graduated approach.

2 **REVEREND MORRISEY:** Yes. And that's why the
3 last paragraph that I wrote there, just before number four,
4 that's why I also said:

5 "If those canons were rewritten, the
6 wording would be somewhat different.
7 But until a legislator intervenes, the
8 law is what it is."

9 **MR. SHERRIFF-SCOTT:** So that the remedy that
10 is restricted and I use it as a remedy or a penalty as
11 opposed to an assessment of culpability. The dismissal
12 from the clerical state; that does not restrict, as I take
13 your evidence, use of other remedies by a bishop in advance
14 of the dismissal?

15 **REVEREND MORRISEY:** Absolutely.

16 **MR. SHERRIFF-SCOTT:** Okay. So that
17 restriction applies only to that remedy. Thus, the bishop
18 is free to apply other administrative decree remedies, not
19 inconsistent with dismissal?

20 **REVEREND MORRISEY:** And that was one of
21 Cardinal Ratzinger's last speeches before he became Pope
22 where he said we have to apply the principle of
23 proportionality here.

24 **MR. SHERRIFF-SCOTT:** Okay.

25 **REVEREND MORRISEY:** But depending on the

1 type of case.

2 **MR. SHERRIFF-SCOTT:** Actually, I think the
3 discussion was that while we're handcuffed here on any case
4 there has to be warning or a graduated approach first. The
5 bishop's hands are virtually tied. And that's not how the
6 discussion was situated in your article, nor is that the
7 canon.

8 **REVEREND MORRISEY:** No, but if I do find
9 that it's abuse -- if there is abuse of a minor, the bishop
10 then has to go to Rome. But, as was mentioned a couple of
11 times this morning, this takes time. In the meantime the
12 bishop has got to do something.

13 **MR. SHERRIFF-SCOTT:** And can use his
14 administrative power to achieve that?

15 **REVEREND MORRISEY:** He has to.

16 **MR. SHERRIFF-SCOTT:** Okay, and can?

17 **REVEREND MORRISEY:** Yes.

18 **MR. SHERRIFF-SCOTT:** Thank you.

19 **THE COMMISSIONER:** Well, he has to.

20 **REVEREND MORRISEY:** In a sense, he couldn't
21 leave the priest in a parish if there were -- supposing
22 there were founded accusations. I didn't say proven but
23 founded, you know what I mean?

24 **THE COMMISSIONER:** Right.

25 **REVEREND MORRISEY:** And he's gone to Rome.

1 Well, in the meantime, he has got to take what I'm going to
2 call "intermediate dispositions" pending the answer from
3 Rome. He could never leave that priest there.

4 **MR. SHERRIFF-SCOTT:** He has got to make an
5 interim order, doesn't he?

6 **REVEREND MORRISEY:** That's a nice word, yes.

7 **MR. SHERRIFF-SCOTT:** Okay. So he still has
8 the administrative decree power to issue an interim order
9 pending disposition by the Vatican on the issue of
10 dismissal from the clerical state?

11 **REVEREND MORRISEY:** And that's Canon 1722
12 that gives him a number of those discretionary powers.

13 **MR. SHERRIFF-SCOTT:** Okay. And so to the
14 extent that diocesans and corporations in Canada have,
15 following From Pain to Hope promulgated protocols which
16 envisage a preliminary analysis prior to referral to Rome,
17 if that is to be the case, these bishops are still not
18 restricted from interim administrative power to suspend and
19 otherwise deal with a priest. Is that fair?

20 **REVEREND MORRISEY:** Of course, yes.

21 **MR. SHERRIFF-SCOTT:** Thank you.

22 And so there is some conflict but not
23 inconsistency?

24 **REVEREND MORRISEY:** Yes, and that's exactly
25 why I am calling for a revision of all the sections of the

1 law to put it together.

2 **MR. SHERRIFF-SCOTT:** Thank you.

3 Now, the 2001 and 2002 document, the
4 apostolic letter may I just anticipate all of what we just
5 discussed? The same situation prevails, does it not? That
6 although ultimately after there is a discernment of
7 reasonable grounds, there must be a referral. The bishop
8 still retains the residual power to -- maybe punish is not
9 the right word, but to use his administrative power in
10 order to accomplish the ends envisaged by a protocol to
11 suspend, et cetera, pending disposition. Is that right?

12 **REVEREND MORRISEY:** Exactly, and that's what
13 -- again, canon -- see Canon 1722, if I could just read it,
14 says:

15 "At any stage in the process in order
16 to prevent scandal, to protect the
17 freedom of witnesses, to safeguard the
18 course of justice, the ordinary can
19 after consulting an order of justice
20 and summoning the accused person to
21 appear, prohibit the accused from the
22 exercise of ministry, from
23 ecclesiastical office or position,
24 impose or forbid residence in a certain
25 place or territory, even prohibit

1 public participation in the Eucharist."

2 **MR. SHERRIFF-SCOTT:** Okay.

3 **REVEREND MORRISEY:** So he's got all those
4 measures.

5 **MR. SHERRIFF-SCOTT:** Retains all that power,
6 notwithstanding the requirement to refer to Rome?

7 **REVEREND MORRISEY:** Absolutely.

8 **MR. SHERRIFF-SCOTT:** Okay. And so there is
9 not inconsistency between that power and Rome's ultimate
10 adjudicative power?

11 **REVEREND MORRISEY:** These are intermediate
12 measures; they are interim measures.

13 **MR. SHERRIFF-SCOTT:** Okay, fair enough.

14 And so from the protocol point of view, as
15 dioceses and corporations have promulgated them or created
16 them, there is no inconsistency that would prevent the use
17 of that power?

18 **REVEREND MORRISEY:** No, the only thing is
19 this, is that a lot of those protocols were done before
20 2001 and they would have to be just fine tuned, take into
21 account that new provision.

22 **MR. SHERRIFF-SCOTT:** Fair enough.

23 The bishop in any event still has discretion
24 and can use it?

25 **REVEREND MORRISEY:** Yes.

1 **MR. SHERRIFF-SCOTT:** And so the proposition
2 is put to you that his hands are tied; that's not accurate
3 in accordance with what the structure is?

4 **REVEREND MORRISEY:** It's not accurate along
5 the way. His hands are tied, though, for the final
6 disposition.

7 **MR. SHERRIFF-SCOTT:** Yes, all right. That
8 means the canonical trial?

9 **REVEREND MORRISEY:** Well, it means the
10 outcome of the canonical trial.

11 **MR. SHERRIFF-SCOTT:** Yes.

12 **REVEREND MORRISEY:** For the other
13 procedures.

14 **MR. SHERRIFF-SCOTT:** Okay. Now, just to
15 clarify a number of other points quickly, we talked about
16 limitation periods. Prior to '83 it was three years, the
17 limitation period on these offences, or was it ---

18 **REVEREND MORRISEY:** I'm going to have to
19 check up to see exactly on the ---

20 **MR. SHERRIFF-SCOTT:** All right.
21 Here is where I'm at with this.

22 **REVEREND MORRISEY:** Okay.

23 **MR. SHERRIFF-SCOTT:** I'm focused on the same
24 issue about the residual retention of power to punish
25 notwithstanding the expiration of a limitation period.

1 REVEREND MORRISEY: Okay.

2 MR. SHERRIFF-SCOTT: If I can transmit where
3 I'm going.

4 So assuming a matter is limitation barred
5 does that -- the bishop retains discretion to deal with
6 this individual in any event?

7 REVEREND MORRISEY: Yes, and what -- there
8 is a special procedure. He immediately contacts Rome and
9 asks Rome for a dispensation from the law on barring
10 actions. The answer comes back and then that's ---

11 THE COMMISSIONER: That's from 2002 on?

12 REVEREND MORRISEY: Two thousand and two
13 (2002) on, yes.

14 MR. SHERRIFF-SCOTT: But prior to that, at
15 the bishop's discretion -- the bishops still have
16 discretion. For example, did not the limitation period
17 apply to dismissal from clerical state?

18 REVEREND MORRISEY: It applied to any -- any
19 crime but there were different ---

20 MR. SHERRIFF-SCOTT: Well, I'm talking about
21 penalty versus crime.

22 So let me ask this question: Did the bishop
23 still retain some administrative power to deal with a
24 person notwithstanding the expiry of a limitation period?

25 REVEREND MORRISEY: Yes, but they would be

1 in the line of administration not in the line of imposing
2 penalties.

3 **MR. SHERRIFF-SCOTT:** Well, what do you mean
4 by that? Would there be no administrative power to deal in
5 some fashion with the individual?

6 **REVEREND MORRISEY:** Well, for instance,
7 removal from an office could be temporary. Sometimes we
8 call it "administrative leave". The bishop can at any
9 moment put a priest on administrative leave that, for all
10 practical purposes, he is not allowed to function then.
11 But that's pending ---

12 **MR. SHERRIFF-SCOTT:** Something else?

13 **REVEREND MORRISEY:** It's pending something
14 else.

15 **MR. SHERRIFF-SCOTT:** Okay.

16 **REVEREND MORRISEY:** And that's still in
17 effect and that ---

18 **THE COMMISSIONER:** Wait a minute now.
19 Pending something else, if the limitation period has
20 passed, there is no something else; therefore, how can
21 there be an administrative -- not a penalty --
22 administrative decision?

23 **REVEREND MORRISEY:** If it's after 2002, you
24 see, he can do it.

25 **THE COMMISSIONER:** Yes, I understand that.

1 **MR. SHERRIFF-SCOTT:** Before or prior to
2 that?

3 **REVEREND MORRISEY:** Prior to that his hands
4 were caught there.

5 **MR. SHERRIFF-SCOTT:** Okay.

6 **REVEREND MORRISEY:** If the case was statute
7 barred it was -- that's right.

8 **MR. SHERRIFF-SCOTT:** All right.

9 Now, on this one strike, you're out
10 phenomenon there is some debate about that with Mr. Wardle
11 and others. I take it that effectively your view on it is
12 embodied in some of the points raised historically by the
13 CCCB which is that assuming, with the input of clinicians
14 trained in dealing with the issue, you have a prognosis and
15 -- a diagnosis and a prognosis and a whole host of other
16 conditions, some person might be returned to some working
17 function?

18 **REVEREND MORRISEY:** Yes.

19 **MR. SHERRIFF-SCOTT:** Not ministry in a
20 parish or in contact with children?

21 **REVEREND MORRISEY:** For instance, the person
22 could be chaplain to a monastery contemplate of nuns.

23 **MR. SHERRIFF-SCOTT:** Right, okay.

24 So the idea is that at least some people,
25 depending on the clinical input, may have the ability to be

1 redeemed in some fashion or reformed or rehabilitated, to
2 use the civil criminal law analogy, and they may have some
3 limited function which could be useful and consistent with
4 their situation.

5 **REVEREND MORRISEY:** Yes, and I would make a
6 distinction, a slight distinction. I have no problem at
7 all with the one strike, you're out provision for any cases
8 arising after 2001 because there's no -- but I have
9 problems with making that retroactive to cases that were
10 solved that were statute-barred and all of that, that have
11 been handled 40 years ago.

12 That's my protest against what we have here.
13 I have no problem at all; on the contrary for the future
14 because they have been warned and people know.

15 **MR. SHERRIFF-SCOTT:** I take it, subject to
16 some of the questions that were put to you a little while
17 ago, you have no dispute for a moment that there are many,
18 many, many valid complaints that have been made over the
19 years in different countries?

20 **REVEREND MORRISEY:** I have no dispute with
21 that at all.

22 **MR. SHERRIFF-SCOTT:** And none of your
23 testimony is designed to belittle that?

24 **REVEREND MORRISEY:** On the contrary. And
25 just to give you an example how this is moving, the Pope

1 decided that any priest or religious involved in
2 downloading pornography is to be treated exactly the same
3 as a person who has physically abused a child because he
4 says every hit on a site gives more financial value to the
5 site, more advertising, more costs and more kids are then
6 abused. So in a sense we have that law in effect now too.

7 **MR. SHERRIFF-SCOTT:** Okay. Now on the
8 subject of archives, there is the word "secret archives" is
9 used, and it's described in some fashion in your document,
10 the archives in that vein are "an archive to which an
11 access is restricted to a bishop and a chancellor".
12 Correct?

13 **REVEREND MORRISEY:** Yes.

14 **MR. SHERRIFF-SCOTT:** And subject to the
15 Wigmore analysis, that wouldn't be beyond the power of, in
16 your view, of a summons issued by a superior court or other
17 court?

18 **REVEREND MORRISEY:** Because they have been;
19 they have already been the object of subpoenas.

20 **MR. SHERRIFF-SCOTT:** And there is no
21 position to the contrary on that?

22 **REVEREND MORRISEY:** Today, I mean, we are
23 protesting but usually the protests are not upheld.

24 **MR. SHERRIFF-SCOTT:** There is a testing of
25 the limits in the courts of what privilege exists and what

1 doesn't.

2 REVEREND MORRISEY: Yes.

3 MR. SHERRIFF-SCOTT: Okay. Now, I just want
4 to read you something and see if I can get your agreement
5 on it. I will just read these words and then I will ask
6 you whether you agree with them.

7 "It may seem to some, that it's a sort
8 of clandestine plan ..." --

9 referring to the 1962 document --

10 "... but in fact it is an expansion with
11 added detail of the procedural laws to
12 be followed. Imposing strict secrecy
13 is not unusual and is imposed for a
14 variety of reasons. The secrecy was
15 intended to assure witnesses that they
16 can speak freely and to protect
17 reputations until guilt or innocence is
18 determined."

19 That was Father Doyle that said that.

20 REVEREND MORRISEY: Yes.

21 MR. SHERRIFF-SCOTT: Do you agree with that?

22 REVEREND MORRISEY: I agree with most of
23 that, yes.

24 MR. SHERRIFF-SCOTT: Okay. Now, he also
25 refers to -- in less than flattering terms -- other

1 reasons, which he says is to avoid scandal and so forth,
2 but at least at one point in history, that was his view.
3 You would agree with that?

4 REVEREND MORRISEY: And the words you last
5 used, sir, are almost those of Canon 1722.

6 MR. SHERRIFF-SCOTT: Okay. And the canon
7 that you discussed in your paper that deals with the
8 protection of privacy and reputation, that applies -- in
9 other words, Sauce for the Goose, Sauce for the Gander.
10 That applies to a -- it's an interdiction that a priest
11 must not assassinate the character and reputation of a
12 parishioner or a member of the faith and vice versa that's
13 ---

14 REVEREND MORRISEY: Absolutely.

15 MR. SHERRIFF-SCOTT: Okay. And there are a
16 whole host of other proceedings in the Church tribunals
17 that are secret?

18 REVEREND MORRISEY: Yes, every marriage
19 nullity case is secret.

20 MR. SHERRIFF-SCOTT: Right. You would agree
21 with the idea that, however notwithstanding what the Church
22 decided to do in all this confidentiality and in camera
23 proceedings that public exposure has worked enormous
24 benefits and is a good thing by and large?

25 REVEREND MORRISEY: As we say in the

1 liturgy, "Oh Happy Fault!"

2 **MR. SHERRIFF-SCOTT:** Now, imputability. If
3 I just can roll through these points. I encourage your
4 evidence on this and as I understand it, like in our civil
5 law, in the canon law for the person to be convicted, if I
6 can use that nomenclature, there must be a *mens rea* and an
7 *actus rea*, as the lawyers mean, there must be an intent?

8 **REVEREND MORRISEY:** Yes.

9 **MR. SHERRIFF-SCOTT:** And so imputability
10 probably or you tell me, does it mean some enfeebling
11 condition which eliminates the possibility of intent being
12 formed?

13 **REVEREND MORRISEY:** Yes, and I will give you
14 an example. They would say that if an act was carried out
15 in the state of drunkenness, that imputability could be
16 diminished, unless -- and it's the unless clause -- unless
17 the drunkenness was induced in order to reduce inhibitions
18 to allow you to do it.

19 **MR. SHERRIFF-SCOTT:** Right. So if you have
20 a clinical disorder maybe that might affect it?

21 **REVEREND MORRISEY:** It could.

22 **MR. SHERRIFF-SCOTT:** All right, but the
23 question of imputability relates to the assessment of the
24 abilities individual to form an intent.

25 **REVEREND MORRISEY:** An intent and to carry

1 it out.

2 **MR. SHERRIFF-SCOTT:** All right. So in that
3 regard, it is similar to our civil structure where we have
4 defences based on automatism and sanity, et cetera.

5 **REVEREND MORRISEY:** Yes.

6 **MR. SHERRIFF-SCOTT:** Okay. You are not
7 going to get, say, "Gee I'm a pedophile; therefore, I'm off
8 the hook".

9 **REVEREND MORRISEY:** No, no. Each case has to
10 be looked at.

11 **MR. SHERRIFF-SCOTT:** That would be a
12 superficial way to describe it. In other words, what I
13 just put to you is a sort of hyperbolic question.

14 **REVEREND MORRISEY:** Yes, it's something that
15 a judge in a penal case has to weigh, has to prove that the
16 person was, indeed, responsible for their action.

17 **MR. SHERRIFF-SCOTT:** Okay. And I'm almost
18 finished here. And I mean it.

19 On the subject of reporting, if we could
20 just turn up the From Pain to Hope document. And 13?

21 **REVEREND MORRISEY:** Yes.

22 **MR. SHERRIFF-SCOTT:** Thank you. Pages 71
23 and 72. There was a recommendation, was there not at this
24 juncture, that down towards the bottom of the page where it
25 has initial letters A and B and following, that there

1 should be a full appreciation for the implications of
2 reporting obligations at the diocesan level?

3 **REVEREND MORRISEY:** Yes, and that's why they
4 give the reference to the law that was in effect at that
5 time in each of the provinces and territories.

6 **MR. SHERRIFF-SCOTT:** Okay. And that has
7 been a subject of educational initiatives by the CCCB and
8 OCCB?

9 **REVEREND MORRISEY:** What has happened is
10 every diocese has a mandatory session for all the priests
11 and again you had to sign to say that you took part in this
12 and that you are aware of it.

13 **MR. SHERRIFF-SCOTT:** And often times, that
14 has been in collaboration with local CAS authorities?

15 **REVEREND MORRISEY:** It could be or local
16 police -- you know, it's depending on ---

17 **MR. SHERRIFF-SCOTT:** Circumstances.
18 Just -- if I could have a moment,
19 Commissioner.

20 **THE COMMISSIONER:** Sure.

21 **MR. SHERRIFF-SCOTT:** I think I'm finished, I
22 just want to see if I've covered everything.

23 Thank you, Reverend Morrisey, those are my
24 questions.

25 **REVEREND MORRISEY:** Thank you.

1 **THE COMMISSIONER:** Thank you. Any re-
2 examination, Mr. Engelmann?

3 **MR. ENGELMANN:** No, I think we've had enough
4 questions. I just wanted to thank -- or sir, unless you
5 have some for the witness.

6 **THE COMMISSIONER:** No. No, that's fine.

7 **MR. ENGELMANN:** I wanted to thank Father
8 Morrisey very much for being with us the last two days.

9 **THE COMMISSIONER:** And I echo that
10 sentiment, Father Morrisey, and I wish you a safe travel
11 back to Ottawa, if that's where you are going. And I take
12 it speeding is not one of those canon things? All right.
13 Have a safe trip.

14 **REVEREND MORRISEY:** Thank you so much.

15 **THE REGISTRAR:** Order; all rise. À l'ordre;
16 veuillez vous lever.

17 The hearing will resume at 2:30.

18 --- Upon recessing at 1:08 p.m./

19 L'audience est suspendue at 13h08

20 --- Upon resuming at 2:46 p.m./

21 L'audience est reprise à 14h46

22 **THE REGISTRAR:** The hearing is now resumed.
23 Please be seated. Veuillez vous asseoir.

24 **THE COMMISSIONER:** Thanks. Mr. Engelmann.
25 What's on for this afternoon?

1 **MR. ENGELMANN:** I'm sorry?

2 **THE COMMISSIONER:** What's on for this
3 afternoon?

4 **--- REMARKS BY/COMENTAIRES PAR MR. PETER ENGELMANN:**

5 **MR. ENGELMANN:** Well the next witness that
6 the Commission intends to call ---

7 **THE COMMISSIONER:** Yes?

8 **MR. ENGELMANN:** --- is Father Tom Doyle.

9 **THE COMMISSIONER:** Right.

10 **MR. ENGELMANN:** He has flown up from
11 Virginia and he is in the Inquiry office right now.

12 **THE COMMISSIONER:** Right.

13 **MR. ENGELMANN:** And we would like to proceed
14 at least with his qualifications.

15 **THE COMMISSIONER:** M'hm.

16 **MR. ENGELMANN:** Yesterday at around five
17 o'clock, we received the motion record from Mr. Sherriff-
18 Scott on behalf of the Diocese. I believe the Registry
19 Officer has a copy.

20 **THE COMMISSIONER:** Right.

21 **MR. ENGELMANN:** Perhaps that should be --
22 it's a motion to exclude the evidence of Tom Doyle. It is
23 also a motion, if necessary, to allow him to be cross-
24 examined in advance, if he is giving testimony as an
25 expert. It also proposes that the cross-examination

1 include a cross-examination on the scope of his
2 qualifications. And further an order that if he is allowed
3 to be called, that it be adjourned until the 10th of
4 September.

5 **THE COMMISSIONER:** M'hm.

6 **MR. ENGELMANN:** As you know, sir, the
7 Commission is intent on dealing with these matters as
8 quickly and as efficiently as possible.

9 **THE COMMISSIONER:** M'hm.

10 **MR. ENGELMANN:** To telescope, I am not aware
11 of this taking place in a public inquiry before, but my
12 experience at least in an adversarial setting with a motion
13 of this nature is that it really just comes up during the
14 course of the qualification of the proposed expert.

15 And I think that that would be an efficient
16 way of dealing with this and it would also in effect grant
17 some of the relief that the Applicant is asking for here.
18 I will, of course, let Mr. Sherriff-Scott speak to that ---

19 **THE COMMISSIONER:** M'hm.

20 **MR. ENGELMANN:** --- but I think that would
21 be an efficient way of dealing with the evidence of Father
22 Doyle. In other words, I would ask him questions on his
23 qualifications, and we would be proposing, just so we're
24 clear, to qualify him as an expert in canon law and the
25 historical background of clergy sexual abuse with a

1 particular interest in the spiritual and pastoral
2 dimensions.

3 **THE COMMISSIONER:** Much like Father
4 Morrisey, except for the last ---

5 **MR. ENGELMANN:** Similar, except also as an
6 expert in the historical background of clergy sexual abuse.

7 **THE COMMISSIONER:** M'hm.

8 **MR. ENGELMANN:** And as you heard from Father
9 Morrisey, Father Doyle's work in or around '85 led to work
10 that he was involved in. So through the qualifications I
11 would ask him some questions about why he's developed that
12 expertise or if he's developed that expertise.

13 **THE COMMISSIONER:** Okay.

14 **MR. ENGELMANN:** So that's certainly how I
15 would propose dealing with this.

16 Mr. Sherriff-Scott's also got a book of
17 authorities. There are other parties who have provided, I
18 think, cases to the Registry Office. I have a case, if
19 it's necessary, on this sort of being the normal process,
20 that it's, in effect, a *voir dire* on the qualification
21 stage, if that's required.

22 But I'll let Mr. Sherriff-Scott speak to
23 this and there may well be other counsel who have a
24 proposed method of proceeding. I just want to do this as
25 efficiently as we can.

1 **THE COMMISSIONER:** All right. Thank you.
2 Mr. Sherriff-Scott. Can I see the material?
3 Has it been marked as exhibits?

4 **MR. ENGELMANN:** The motion record, and I
5 assume that everybody has it, it was delivered at the end
6 of the day yesterday. M9-A1, if it could be marked in that
7 fashion? You'll see the Notice of Motion at Tab 1, sir.

8 **THE COMMISSIONER:** M'hm.

9 **MR. ENGELMANN:** M-9-A1.

10 **THE COMMISSIONER:** Yes.

11 **MR. ENGELMANN:** I'm just repeating it for --
12 -

13 **THE COMMISSIONER:** Sorry.

14 --- **EXHIBIT NO./PIÈCE NO. M9-A1:**
15 Motion Record - Motion for exclusion of
16 evidence of Thomas P. Doyle

17 --- **EXHIBIT NO./PIÈCE NO. M9-A2**
18 Book of Authorities for the Motion for
19 exclusion of evidence of Thomas P. Doyle

20 **MR. ENGELMANN:** Anything else from me, sir?

21 **THE COMMISSIONER:** No, thank you.

22 Mr. Sherriff-Scott.

23 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. DAVID SHERRIFF-**
24 **SCOTT:**

25 **MR. SHERRIFF-SCOTT:** I would propose to

1 proceed with the motion now and, if necessary, which is one
2 of the expressions I used in the material, have the witness
3 after the submissions are made.

4 First of all, there is an evidentiary record
5 that I would submit is sufficient to grant the relief.

6 **THE COMMISSIONER:** M'hm.

7 **MR. SHERRIFF-SCOTT:** Secondly, I think it's
8 important from the point of view of what will follow in
9 terms of the evidence that you be aware of the applicable
10 authorities and the principles that will be engaged as the
11 matter proceeds. And so I think that that is the most
12 appropriate way to deal with it, and from the point of view
13 of economy, you're going to hear almost all of this anyway
14 and I don't think any time significantly will be lost one
15 way or another.

16 **THE COMMISSIONER:** M'hm.

17 **MR. SHERRIFF-SCOTT:** I'm not seeking an
18 adjournment at this time of Mr. Doyle's evidence. Although
19 still I am not aware of all the details of it based on the
20 disclosure, I'm prepared to proceed subject to my motion.

21 **THE COMMISSIONER:** M'hm.

22 **MR. SHERRIFF-SCOTT:** So I would submit that
23 I be allowed to proceed now, review the Motion Record with
24 you, the authorities, hear the response of counsel, and
25 then if you consider it necessary, the witness be called.

1 **THE COMMISSIONER:** Thank you.

2 All right. Any other comments, gentlemen,
3 about the procedure? Mr. Wardle.

4 --- **COMMENTS BY/COMMENTAIRES PAR MR. PETER WARDLE:**

5 **MR. WARDLE:** I take it from what my friend
6 has said, he doesn't propose that we go through this twice.
7 In other words, he doesn't get two bites at the apple?

8 **THE COMMISSIONER:** No.

9 **MR. SHERRIFF-SCOTT:** I didn't hear that; I'm
10 sorry.

11 **MR. WARDLE:** I take it that Mr. Sherriff-
12 Scott is not suggesting that he gets two bites at the
13 apple?

14 **MR. SHERRIFF-SCOTT:** Sorry, your metaphor --
15 -

16 **MR. WARDLE:** In other words, we don't argue
17 this and then argue it all over again once we've got
18 through the qualification stage with this witness? We
19 argue it once.

20 **MR. SHERRIFF-SCOTT:** Yes.

21 **THE COMMISSIONER:** Okay.

22 **MR. WARDLE:** Then I'm content with that.

23 **THE COMMISSIONER:** All right.

24 Mr. Lee.

25 --- **COMMENTS BY/COMMENTAIRES PAR MR. DALLAS LEE:**

1 **MR. LEE:** To follow up on what Mr. Wardle
2 said, I have a similar concern that we hear the motion now.
3 The materials or submissions, or whatever Mr. Sherriff-
4 Scott is going to say are going to go in to admissibility.
5 He's then, during his cross-examination, going to go into
6 it all again and argue that he should be allowed to do it
7 because then it goes to weight.

8 I think that if he's going to make
9 suggestions that there's bias or advocacy or whatever is
10 going on, he does it once. It's determinative of the issue
11 when it's not, and if it's not, then that's the end of it.

12 The other point I wanted to make is that, as
13 Mr. Engelmann told us, Father Doyle is here now from
14 Virginia. He's ready to go.

15 **THE COMMISSIONER:** M'hm.

16 **MR. LEE:** It would seem to me that it would
17 make sense to put him in the box and hear from him in
18 response to whatever Mr. -- I can't think of a better word
19 -- I'm going to say allegations of Mr. Sherriff-Scott of
20 bias or of advocacy or whatever it is. If he's here, he
21 should be here to explain himself, in my opinion.

22 **THE COMMISSIONER:** Okay. Thank you.

23 **MR. LEE:** Thanks.

24 **THE COMMISSIONER:** Mr. Bennett, any
25 comments?

1 --- COMMENTS BY/COMMENTAIRES PAR MR. DAVID BENNETT:

2 MR. BENNETT: I have no comments on
3 procedure. I will have comments later on whether we should
4 hear from this witness.

5 THE COMMISSIONER: Okay. Thank you.
6 Mr. Chisholm.

7 MR. CHISHOLM: No comments with respect to
8 procedure, but I will have comments with respect to the
9 merits of the motion.

10 THE COMMISSIONER: All right.
11 Mr. Rose.

12 MR. ROSE: Nothing at this time, sir.

13 THE COMMISSIONER: Thank you.

14 Ms. Im.

15 MS. IM: Nothing at this time.

16 THE COMMISSIONER: Thank you.

17 Ms. Robitaille.

18 MS. ROBITAILLE: Nothing. Thank you.

19 THE COMMISSIONER: Mr. Crane.

20 MR. CRANE: Nothing, thank you.

21 THE COMMISSIONER: Thank you.

22 Ms. Brannan.

23 MS. SACCOCCI BRANNAN: Nothing, thank you.

24 THE COMMISSIONER: Mr. Carroll.

25 MR. CARROLL: No submission. Thank you.

1 **THE COMMISSIONER:** No one else here.

2 **--- COMMENTS BY/COMMENTAIRES PAR MR. DAVID SHERRIFF-SCOTT:**

3 **MR. SHERRIFF-SCOTT:** Before you close the
4 matter, I have just one more comment to make in response
5 just to clarify what Mr. Wardle said on my position. And
6 this may be moot in view of what you're about to say, but I
7 would reserve the right to cross-examine the witness with
8 respect to issues of weight.

9 **THE COMMISSIONER:** Oh yes.

10 **MR. SHERRIFF-SCOTT:** Or on the same issues
11 and material, or if you considered it necessary after you
12 heard the submissions to call him to further elucidate the
13 points, then I would say that would be appropriate as well,
14 but I would like to proceed with the motion first.

15 **THE COMMISSIONER:** Go ahead.

16 **MR. SHERRIFF-SCOTT:** Thank you.

17 **THE COMMISSIONER:** I'm sorry, Mr. Engelmann.
18 Sorry.

19 **MR. ENGELMANN:** Might I speak to the issue
20 briefly, because I do not see this as economical, sir.

21 **THE COMMISSIONER:** M'hm.

22 **--- COMMENTS BY/COMMENTAIRES PAR MR. PETER ENGELMANN:**

23 **MR. ENGELMANN:** And just to harken back to
24 what -- I've never heard of this process going without --
25 as I said, the witness is in the box; the witness is asked

1 questions, and rather than deal with this in the abstract,
2 he's here. If Mr. Sherriff-Scott wants to challenge him as
3 an advocate or on his bias, he should do it with the
4 witness in the box.

5 I have a case ---

6 **THE COMMISSIONER:** Okay.

7 **MR. ENGELMANN:** As I said, this happens very
8 rarely, but when it does happen, there's a process that's
9 followed.

10 **THE COMMISSIONER:** M'hm.

11 **MR. ENGELMANN:** And I know we don't have to
12 follow these processes; we're in an informal inquiry, but -
13 --

14 **THE COMMISSIONER:** Okay. But we are going
15 to end up cross-examining him twice in any event.

16 **MR. ENGELMANN:** That's my concern. What
17 we're going to do is we're going to cross-examine him sort
18 of *in absentia* because things are going to be said about
19 him without him here in the room and then it's going to
20 happen again later on.

21 **THE COMMISSIONER:** No, but -- right. But
22 even if we call him in now; right?

23 **MR. ENGELMANN:** Yes.

24 **THE COMMISSIONER:** And we -- on the issue of
25 bias, then we've got to come back and qualify him as an

1 expert.

2 **MR. ENGELMANN:** Sir, what I would intend to
3 do is I would attempt to qualify him. I will ask him some
4 questions about his qualifications.

5 **THE COMMISSIONER:** M'hm.

6 **MR. ENGELMANN:** At that point, in my
7 respectful submission, if someone is challenging the
8 witness either on the basis of his qualifications or on the
9 basis of he can't be qualified because he's biased or he's
10 an advocate or whatever, that's normally when it's done.

11 And what the case says, sir, and this is --
12 there are several cases on this point. I pulled up one
13 quickly because I was surprised by the process that was
14 being suggested. It's *R. v. Inco*. It's a 2006 case from
15 the Ontario Superior Court of Justice, Justice Hennessy ---

16 **THE COMMISSIONER:** From Sudbury. Yes, it
17 is.

18 **MR. ENGELMANN:** I'm not sure, sir.

19 **THE COMMISSIONER:** Well, I am. Inco
20 Sudbury?

21 **MR. ENGELMANN:** I can't say that I read the
22 whole case. It was just brought to my attention. Para 45:

23 "Before rejecting a witness based on a
24 perceived lack of independence, the
25 trial judge should conduct a *voir dire*

1 to test this perception against the
2 actual opinion evidence to be
3 proffered. On a *voir dire* the trial
4 judge can assess this perception in
5 light of the opinions tested under
6 cross-examination, and in particular
7 the assumptions, the disclosure of
8 materials facts, the completeness and
9 the level of expertise."

10 **THE COMMISSIONER:** Well, that's the normal
11 way of doing it in any trial.

12 **MR. ENGELMANN:** Yes.

13 **THE COMMISSIONER:** In a criminal trial as
14 well. Okay.

15 Mr. Sherriff-Scott, what do you have to say
16 about that one?

17 **MR. ENGELMANN:** I guess what I'm saying is
18 why should we depart from the norm?

19 **THE COMMISSIONER:** Okay.

20 Mr. Sherriff-Scott, any rebuttal to that?

21 --- **COMMENTS BY/COMMENTAIRES PAR MR. DAVID SHERRIFF-SCOTT**

22 **MR. SHERRIFF-SCOTT:** Well, I just reiterate
23 my position that I would like to review the material and
24 the authorities to contextualize the evidence. If you
25 consider it necessary to call the man on that subject to

1 further engage the issue then you can do so. The question
2 of his qualifications has to be done whether I do this now
3 or later.

4 **THE COMMISSIONER:** Right.

5 What we are trying to do is put it all in
6 one.

7 **MR. SHERRIFF-SCOTT:** Well, in my view, as I
8 should be entitled to put the motion forward on the record
9 and if you have concerns about the record or you want to
10 explore it further, the witness should be asked about it.

11 **THE COMMISSIONER:** Okay. So why -- why
12 deviate from what is really the norm in any adversarial
13 system although we are not in an adversarial system? Like
14 normally in any trial we would be doing a *voir dire*. And
15 you would bring the motion at that after he has been cross-
16 examined?

17 **MR. SHERRIFF-SCOTT:** Well, if that's the way
18 you want to proceed, fine. I think there is more -- just
19 as much economy in proceeding this way and I want the
20 authorities before you before he testifies on this issue so
21 that what is put at a later stage if necessary is properly
22 contextualized.

23 So I would like to review the authorities
24 and the applicable law and principles so that you have the
25 ability to put squarely into context what you hear as it

1 follows.

2 **THE COMMISSIONER:** Well, you know, I can do
3 it retroactively. So I'll bend to Commission wishes and
4 we'll go with a *voir dire*, sure enough.

5 **MR. ENGELMANN:** Sir, if I can just have a
6 minute then to get Father Doyle? You don't have to break.
7 I'll just ---

8 **THE COMMISSIONER:** No, I'm not breaking.

9 **(SHORT PAUSE/COURTE PAUSE)**

10 **MR. SHERRIFF-SCOTT:** I'm just passing out a
11 case, Commissioner that I will be putting to the witness in
12 cross-examination regarding how his opinions were treated
13 in another forum.

14 **THE COMMISSIONER:** M'hm.

15 **(SHORT PAUSE/COURTE PAUSE)**

16 **THE COMMISSIONER:** Yes. The case law is
17 going to be -- well, we don't mark case law as exhibits, do
18 we?

19 **MR. ENGELMANN:** We've had an inconsistent
20 practice. I'd prefer not to, because we have a lot of
21 loose cases too, sir.

22 **THE COMMISSIONER:** Okay, thank you.

23 **MR. ENGELMANN:** So the next witness for the
24 Commission is Father Tom Doyle, if the witness could be
25 sworn please Madam Clerk?

1 **THOMAS P. DOYLE, Sworn/Assermenté:**

2 **THE COMMISSIONER:** Thank you.

3 Good afternoon, Father Doyle.

4 **REVEREND DOYLE:** Good afternoon.

5 **THE COMMISSIONER:** Thank you for coming.

6 You'll see there is a water jug and water.

7 There is a computer screen. You might have recourse to it.

8 And there is a microphone in front of you for the speakers
9 here.

10 **REVEREND DOYLE:** Thank you, sir.

11 **THE COMMISSIONER:** Thank you.

12 Mr. Engelmann.

13 **MR. ENGELMANN:** Thank you.

14 --- **EXAMINATION ON QUALIFICATIONS BY/INTERROGATOIRE POUR**
15 **QUALIFICATIONS PAR MR. PETER ENGELMANN:**

16 **MR. ENGELMANN:** Good afternoon, Father
17 Doyle.

18 **REVEREND DOYLE:** Good afternoon.

19 **MR. ENGELMANN:** Could the witness be shown a
20 Book of Documents, Volume 1, Tabs 1 to 6, the Reverend
21 Thomas P. Doyle?

22 Perhaps given what we're doing here if this
23 could be marked as an exhibit for identification purposes?

24 **THE COMMISSIONER:** Thank you.

25 **MR. ENGELMANN:** And if he is qualified it

1 can be a full exhibit. If not, as is.

2 **THE COMMISSIONER:** Yes, thank you.

3 **MR. ENGELMANN:** I'm not sure what the next
4 number is, sir.

5 **THE COMMISSIONER:** Six-thirty-six (636).

6 --- **EXHIBIT NO./PIÈCE NO. I-636:**

7 Book of Documents for The Reverend Thomas
8 P. Doyle, for Identification Purposes only

9 **MR. ENGELMANN:** Mr. Commissioner, I will be
10 seeking to have Father Doyle qualified as an expert in
11 canon law and the historical background of clergy sexual
12 abuse with a particular interest in the spiritual and
13 pastoral dimensions of clergy sexual abuse.

14 **THE COMMISSIONER:** Okay.

15 **MR. ENGELMANN:** Father Doyle, what I would
16 like to do, sir, is if you have the Book of Documents in
17 front of you, I-636, I just want to go through the tabs
18 with you for a moment.

19 At Tab 1 can you tell us if that is a
20 current and accurate copy of your curriculum vitae?

21 **REVEREND DOYLE:** Yes, I believe it is.

22 **MR. ENGELMANN:** Okay. And sir, you are
23 currently a resident of Vienna, Virginia, United States?

24 **REVEREND DOYLE:** That's correct.

25 **MR. ENGELMANN:** And at Tab 2 do we see what

1 I will refer to as a bio, a short form of the CV, so to
2 speak?

3 REVEREND DOYLE: Yes, correct.

4 MR. ENGELMANN: And it's current and
5 accurate?

6 REVEREND DOYLE: Yes, it is.

7 MR. ENGELMANN: And sir, at Tab 3 we have a
8 document entitled The Problem of Sexual Molestation by
9 Roman Catholic Clergy, Meeting the Problem in a
10 Comprehensive and Responsible Manner. Is that a document
11 you're familiar with?

12 REVEREND DOYLE: Yes, it is.

13 MR. ENGELMANN: And I understand you were
14 co-author of that document?

15 REVEREND DOYLE: That's correct.

16 MR. ENGELMANN: And who are the other two
17 authors?

18 REVEREND DOYLE: Father Dr. Michael
19 Peterson, a priest/psychiatrist who is now deceased and Mr.
20 F. Ray Mouton who is an American civilian attorney who
21 presently is retired.

22 MR. ENGELMANN: And sir, I understand that
23 there may be more to the report than we actually have here?

24 REVEREND DOYLE: Yes, there is more to the
25 report than is before me, if I can expand on that?

1 **MR. ENGELMANN:** Sure.

2 **REVEREND DOYLE:** There was what we called an
3 executive summary which was a fairly lengthy detailed
4 summary with some recommendations. And there also was an
5 addendum -- an insert with the action proposals, three
6 concrete action proposals. As well as at the end of the
7 document there were several appendices which consisted of
8 articles from professional medical journals that had been
9 selected by Dr. Peterson, all concerning the medical aspect
10 of pedophilia and related sexual disorders that prompted
11 men to sexually abuse children.

12 **MR. ENGELMANN:** All right.

13 Well, in the shortness of time we have the
14 pages we do, I will ask you a few questions about them in
15 my attempt to qualify you.

16 **REVEREND DOYLE:** Thank you.

17 **MR. ENGELMANN:** But if we could then turn to
18 Tab 4?

19 **REVEREND DOYLE:** Yes.

20 **MR. ENGELMANN:** Is this an article you would
21 have written, sir?

22 **REVEREND DOYLE:** Yes, it is.

23 **MR. ENGELMANN:** And this is an article you
24 would have written fairly early on?

25 **REVEREND DOYLE:** Yes, 1990.

1 MR. ENGELMANN: All right.

2 And at Tab 5 is this an article that you co-
3 authored more recently?

4 REVEREND DOYLE: Yes, it is.

5 MR. ENGELMANN: And it's entitled Catholic
6 Clergy: Sexual Abuse Meets the Civil Law?

7 REVEREND DOYLE: Correct.

8 MR. ENGELMANN: And lastly, sir, this is not
9 a document you had anything to do with. As I understand
10 it, these are the conclusions and recommendations of the
11 Winter Commission?

12 REVEREND DOYLE: Yes, they are.

13 MR. ENGELMANN: All right.

14 So and again, if qualified, I will be asking
15 you some questions about those.

16 REVEREND DOYLE: Thank you.

17 MR. ENGELMANN: So if we could just turn to
18 -- oh, sir, I'll just be a moment.

19 You are currently an ordained priest of the
20 Roman Catholic Church; is that correct?

21 REVEREND DOYLE: That's correct.

22 MR. ENGELMANN: And I understand you are a
23 member of a religious order known as the Dominican Order?

24 REVEREND DOYLE: That's correct.

25 MR. ENGELMANN: And sir, I understand that

1 you were ordained as a Catholic priest in 1970?

2 **REVEREND DOYLE:** Yes, that's true.

3 **MR. ENGELMANN:** Now, we just had a witness,
4 a witness that I understand you know, Frank Morrisey?

5 **REVEREND DOYLE:** Yes, yes, I do.

6 **MR. ENGELMANN:** And Father Morrisey is also
7 a member of a religious order, the Oblate Order?

8 **REVEREND DOYLE:** That's right.

9 **MR. ENGELMANN:** And he had -- as I
10 understand it people who are members of an order are not
11 incardinated in a diocese.

12 **REVEREND DOYLE:** That's correct.

13 **MR. ENGELMANN:** But on occasion could still
14 act as a parish priest?

15 **REVEREND DOYLE:** That's correct.

16 **MR. ENGELMANN:** And can you tell us, sir, if
17 you've had any experience working as a parish priest?

18 **REVEREND DOYLE:** I was assigned to a
19 Dominican parish for -- on a fulltime basis right after my
20 ordination, actually a year after ordination. I did post-
21 graduate study for the first year, then for the first two
22 and a half to three years, I was a fulltime assistant
23 pastor in a Chicago suburban parish.

24 Subsequent to that I remained living in the
25 same locale but I worked as a part-time assistant pastor in

1 the parish, while fulfilling other fulltime duties.

2 THE COMMISSIONER: I'm sorry, I didn't catch
3 that. How long were you with that parish?

4 REVEREND DOYLE: I was with that parish, sir
5 -- I lived in the parish for approximately nine years but I
6 was a fulltime assistant pastor for about two and a half to
7 three years, just short of three.

8 THE COMMISSIONER: And fulltime?

9 REVEREND DOYLE: Fulltime for that period.

10 THE COMMISSIONER: Like fulltime, fulltime?

11 REVEREND DOYLE: Fulltime, fulltime.

12 THE COMMISSIONER: No, but you were part-
13 time for a while but I thought after you were ordained you
14 were there as a fulltime.

15 REVEREND DOYLE: At first, I was fulltime
16 just as a parish priest.

17 THE COMMISSIONER: Right. How long did that
18 last?

19 REVEREND DOYLE: That was about three years,
20 close to three years.

21 THE COMMISSIONER: Thank you, thank you.

22 MR. ENGELMANN: And then you were involved
23 on a part-time basis?

24 REVEREND DOYLE: Part-time basis because I
25 was given a full-time assignment in another job.

1 **MR. ENGELMANN:** And sir, did you also have
2 occasion throughout your career to work as a chaplain?

3 **REVEREND DOYLE:** I was a military chaplain
4 from 1986 until 2004.

5 **MR. ENGELMANN:** And would some of those
6 duties be duties similar to that of a parish priest?

7 **REVEREND DOYLE:** They were very similar to a
8 parish priest because in the United States Air Force there
9 is a chapel on every base and there is a chapel community
10 which would be very analogous to a parish where we had
11 religious education, much the same as a civilian parish.

12 **MR. ENGELMANN:** All right.

13 And you did that for approximately 18 years?

14 **REVEREND DOYLE:** That's correct.

15 **THE COMMISSIONER:** And what are you doing
16 now, sir?

17 **REVEREND DOYLE:** Right now I do a number of
18 things. I do work as an addictions therapist. I do
19 primarily a lot of pastoral ministry with victims of sexual
20 abuse and some with perpetrators actually with priests. I
21 do research and writing and lecturing. It's a mixed bag.

22 **THE COMMISSIONER:** Thank you.

23 **MR. ENGELMANN:** Sir, as far as your
24 education, I understand that you have studied in a number
25 of areas and have a number of degrees?

1 REVEREND DOYLE: That's true.

2 MR. ENGELMANN: You have a B.A. in
3 Philosophy from Aquinas Institute of Philosophy in River
4 Forest, Illinois?

5 REVEREND DOYLE: Correct.

6 MR. ENGELMANN: You also have an M.A. in
7 Philosophy from the same institution?

8 REVEREND DOYLE: That's correct.

9 MR. ENGELMANN: And that's back in 1968.
10 You have a Masters in Political Science from the University
11 of Wisconsin in 1971?

12 REVEREND DOYLE: That's true.

13 MR. ENGELMANN: A Masters in Theology, again
14 from Aquinas Institute of Theology in Iowa in 1971?

15 REVEREND DOYLE: Yes.

16 MR. ENGELMANN: An MCHA -- what does that
17 stand for?

18 REVEREND DOYLE: Master of Church
19 Administration.

20 MR. ENGELMANN: And that is something you
21 obtained from the Catholic University of America in
22 Washington, D.C. in 1976?

23 REVEREND DOYLE: That's right.

24 MR. ENGELMANN: You have a Masters in Canon
25 Law from the University of Ottawa?

1 REVEREND DOYLE: Yes.

2 MR. ENGELMANN: And is that at or about the
3 time you might have become acquainted with Father Morrisey?

4 REVEREND DOYLE: I actually met Father
5 Morrisey in 1972. He had a canon law convention, the first
6 one I ever went to. And I had known him since then, seeing
7 him at different conventions, meetings and so on, and he
8 was instrumental in my decision to go to Ottawa.

9 MR. ENGELMANN: All right.

10 REVEREND DOYLE: To school.

11 MR. ENGELMANN: I understand,
12 coincidentally, you haven't seen him in over 20 years.

13 REVEREND DOYLE: That's correct.

14 MR. ENGELMANN: Till you saw him just ---

15 REVEREND DOYLE: Last night and this
16 morning.

17 MR. ENGELMANN: Yes.

18 So sir, you have got a Masters in Canon Law
19 from the University of Ottawa. You also have a JCL in
20 Pontifical Lencentiate, in Canon Law from St. Paul's
21 University?

22 REVEREND DOYLE: That's right.

23 MR. ENGELMANN: And as well, you have a JCD?

24 REVEREND DOYLE: That's a doctorate,
25 Pontifical Doctorate in Canon Law.

1 **MR. ENGELMANN:** And that is from the
2 Catholic University of America in 1978?

3 **REVEREND DOYLE:** That's right.

4 **MR. ENGELMANN:** And sir, can you give us a
5 sense as to the particular areas of study when you were
6 studying canon law?

7 **REVEREND DOYLE:** I specialized -- when I got
8 into the -- about halfway through I became very interested
9 in medieval law, medieval canon law and medieval law in
10 general. And so I began to specialize in the historical
11 dimension and development of canon law. I did my doctoral
12 research in medieval law and my dissertation was on
13 medieval law and marriage and family in the Middle Ages.

14 **MR. ENGELMANN:** So you would be familiar
15 with many of the canons that existed prior to the first
16 Code in 1917?

17 **REVEREND DOYLE:** Well, there were about 20
18 million canons that existed in the first Code, so I'm
19 familiar with a few of them.

20 **MR. ENGELMANN:** All right.

21 And sir, with respect to your canon law
22 experience, I understand you've taught canon law for a
23 number of years?

24 **REVEREND DOYLE:** I taught as a -- I believe
25 the term at the time was adjunct lecturer at Catholic

1 University for about five or six years, six years, I think.

2 MR. ENGELMANN: That was about 1981 to 1986
3 in Washington, D.C.?

4 REVEREND DOYLE: Yes. Yes, that's correct.

5 MR. ENGELMANN: Is that when you were also
6 working at the Vatican Embassy?

7 REVEREND DOYLE: Yes, that's true.

8 MR. ENGELMANN: I understand from 1979
9 through '81, you were a visiting lecturer in canon law at
10 the Catholic Theological Union in Chicago?

11 REVEREND DOYLE: That's correct.

12 MR. ENGELMANN: And sir, have you also been
13 a lecturer at the Matrimonial Tribunal Institutes?

14 REVEREND DOYLE: I was a lecturer at two of
15 them, one at the Catholic University of America for several
16 summers and also at the one in Mundelein University in the
17 Chicago area.

18 MR. ENGELMANN: Can you tell us what that
19 entails?

20 REVEREND DOYLE: Those were specialized
21 institutes that provided instruction for canon lawyers and
22 others who were involved in tribunal work, mostly marital
23 theology, procedures and law.

24 MR. ENGELMANN: And so you have listed on
25 your C.V. the fact that you were a member of a number of

1 canon law societies.

2 REVEREND DOYLE: That's right.

3 MR. ENGELMANN: They would include canon law
4 societies in Great Britain, Ireland, Australia, New
5 Zealand, Canada and La Société internationale du droit
6 canonique?

7 REVEREND DOYLE: That's correct.

8 MR. ENGELMANN: Is there an equivalent in
9 the U.S. that you're also a member of?

10 REVEREND DOYLE: I got my membership in the
11 American Canon Law Society when I went to work at the
12 Vatican Embassy. There were some issues that my superior
13 and I thought might be conflictual so I dropped it. And I
14 never got around to re-enacting it, which I am now. I am
15 in the process of re-upping.

16 MR. ENGELMANN: Okay. Now, in your C.V. you
17 mentioned lecturing in many countries on various aspects of
18 Church law, including procedural law, penal law, religious
19 law, property law. Would those discussions engage a
20 discussion of the canon law?

21 REVEREND DOYLE: Yes, a lot of the lecturing
22 took place in the '80s just before the new Code was
23 promulgated in 1983 and then the period afterwards. I was
24 one of the authors of the first major English-language
25 commentary that was sponsored by the American Canon Law

1 Society. I wrote the whole section on marriage. So I was
2 a -- I guess a prime candidate to go around and lecture on
3 the new Code, the new Canons. And I did it in several
4 different areas, as you have enunciated.

5 **MR. ENGELMANN:** All right.

6 And who would you have been lecturing to,
7 sir?

8 **REVEREND DOYLE:** A mixed group of canon
9 lawyers, diocesan and religious clergy. I gave some
10 lectures to groups of bishops, some lay groups that were
11 interested in the new Code of Canon Law because for the
12 first time it was in the vernacular of languages.

13 That would be about it as far as ---

14 **MR. ENGELMANN:** All right.

15 And you were doing this in the 1980s?

16 **REVEREND DOYLE:** In the 1980s, yes.

17 **MR. ENGELMANN:** And sir, you list as having
18 some experience as a tribunal judge.

19 **REVEREND DOYLE:** That's correct.

20 **MR. ENGELMANN:** Tell us what that entails.

21 **REVEREND DOYLE:** The tribunal judge is a
22 judge in the ecclesiastical court system. Primarily, what
23 we dealt with was marital and matrimonial nullity cases of
24 different types.

25 **MR. ENGELMANN:** And as a tribunal judge

1 would you have to have either a doctorate or a Masters in
2 canon law?

3 **REVEREND DOYLE:** When I first began it was
4 under the old Code and what was required then was, I
5 believe, a licencship or a Masters in canon law or a
6 dispensation from that requirement, and I had one. I had a
7 licencship at the time and then a doctorate. And it does
8 require -- I'd have to look back but I think it requires at
9 least a Masters level degree.

10 **MR. ENGELMANN:** All right.

11 Do you still do that, sir, or ---

12 **REVEREND DOYLE:** Not any longer. I haven't
13 done any of that type of work since I left the military.
14 When I was in the military, I still did some.

15 **MR. ENGELMANN:** All right.

16 And you left the military in about 2004?

17 **REVEREND DOYLE:** In 2004.

18 **MR. ENGELMANN:** Sir, I also understand
19 you've served as a consultant on matters of canon law for
20 the National Conference of Catholic Bishops?

21 **REVEREND DOYLE:** I did two terms as a
22 canonical consultant. The Catholic Bishops of the United
23 States, and I believe it's true in Canada, have a number of
24 committees. One of them was called Canonical Affairs and I
25 was an expert consultant to that. Basically, you're the

1 guy that did the work.

2 **MR. ENGELMANN:** All right.

3 **REVEREND DOYLE:** Wrote the papers and did
4 the ---

5 **MR. ENGELMANN:** And the National Conference
6 of Catholic Bishops, is that a predecessor to the USSCB --
7 USSCB?

8 **REVEREND DOYLE:** Yes, that's what it was
9 initially called, the National Conference of Catholic
10 Bishops, now called the United States Conference of
11 Catholic Bishops.

12 **MR. ENGELMANN:** And I understand, sir, you
13 did that work as a consultant between 1983 and 1990?

14 **REVEREND DOYLE:** I believe those were the
15 years, yeah.

16 **MR. ENGELMANN:** And, sir, in 1981 through
17 1986, did you serve as a secretary canonist at the Vatican
18 Embassy in Washington?

19 **REVEREND DOYLE:** Yes, I did.

20 **MR. ENGELMANN:** And can you tell us what
21 would be involved in the work of a secretary canonist?

22 **REVEREND DOYLE:** A variety of duties. My
23 primary duty was to monitor or manage the program whereby
24 candidates for the Office of the Bishop were investigated
25 and proposed to the Vatican, also whereby dioceses were

1 created; bishops were transferred; anything to do with
2 bishops in that area.

3 I also, as the staff official canon lawyer,
4 was asked to handle a number of variety of research
5 projects for the papal ambassador that were -- you know,
6 there was a broad variety, and also to provide assistance
7 in some difficult personnel issues.

8 **MR. ENGELMANN:** All right.

9 And I think we've covered the areas I wanted
10 to cover with canon law. Let's go into the expertise in
11 the area of clergy sexual abuse.

12 **REVEREND DOYLE:** Okay.

13 **MR. ENGELMANN:** Would some of those
14 difficult cases that you had to handle, when you were at
15 the Vatican Embassy, have been cases of clergy sexual
16 abuse?

17 **REVEREND DOYLE:** Yes, they were.

18 **MR. ENGELMANN:** All right.

19 And can you give us a sense as to
20 approximately when you started to be involved in that work?

21 **REVEREND DOYLE:** The first two cases that I
22 was involved in were, I believe, in 1982 and the main one
23 that really got the most public notoriety -- the only one
24 that became public at the time was -- began in June of
25 1984. That's my first involvement was June of '84.

1 **MR. ENGELMANN:** So the first two, were those
2 internal Church trials?

3 **REVEREND DOYLE:** They weren't Church trials.
4 They were merely reports that we received about sexual
5 improprieties by high-ranking clergymen and I was simply
6 asked to put together a protocol for some form of
7 investigation to determine the veracity of the allegations.

8 **MR. ENGELMANN:** Now, given what we've heard,
9 were those investigations and/or protocols of a secret
10 nature at the time?

11 **REVEREND DOYLE:** Yes, they were. They were
12 conducted in complete confidence.

13 **MR. ENGELMANN:** All right.

14 What about the one that was public? Feel
15 free to talk about that.

16 **REVEREND DOYLE:** Yes, that one is publicly
17 known. That was the case involving Father Gilbert Gauthé
18 from the Diocese of Lafayette in Louisiana. And that
19 became publicly known for a couple of reasons. One of the
20 families that had entered into a legal agreement with the
21 diocese for monetary damages pulled out of it and actually
22 filed a civil lawsuit. And at the same time, the District
23 Attorney of the parish, as they call the county down there,
24 had to file criminal charges, and that became public.

25 Although there had been publicity -- very

1 limited publicity attached to public instances of clergy
2 sexual abuse prior to that in the United States -- for
3 instance, I know of two actual criminal trials where
4 priests were tried for rape of children, convicted and
5 sentenced where there was very, very little publicity. In
6 this particular instance it garnered a lot of publicity and
7 that's how I became ---

8 **MR. ENGELMANN:** So what was your role as a
9 secretary canonist?

10 **REVEREND DOYLE:** My role at the time was to
11 basically manage the case file. At first it was simply to
12 write a response to the bishop, from my superior, the
13 Apostolic Nuncio's signature, and then when the -- we
14 received one letter and then a few days later another
15 letter telling us that we have a serious problem because
16 this one family is going to sue the Church and it's going
17 to become public. I mainly handled the incoming
18 information; prepared memos and briefed my superior on
19 this; and also recommended strategy.

20 **MR. ENGELMANN:** So were you assisting the
21 diocese in the response to the allegation?

22 **REVEREND DOYLE:** I was assisting primarily
23 the Papal Nuncio but also the diocese because I recommended
24 to the diocese, for example, that they connect with a
25 healthcare institution in Washington called Saint Luke

1 Institute to bring the priest there for evaluation and some
2 assistance.

3 MR. ENGELMANN: And did that particular
4 priest -- I don't know if this is public again, but ---

5 REVEREND DOYLE: I'll tell you if I can't
6 speak about something.

7 MR. ENGELMANN: All right.

8 REVEREND DOYLE: But yes, Father Peterson,
9 Michael Peterson -- we mentioned him before -- went to
10 Louisiana and did interview him, and then rather than bring
11 him to Saint Luke Institute, he went to a facility -- a
12 secular facility in Hartford, Connecticut known as the
13 Institute for Living. And Father Peterson did see him
14 there as a therapist and also as an expert to assist in
15 what we hoped would be -- what they hoped would be a
16 negotiation with the courts for a plea bargain.

17 MR. ENGELMANN: All right.

18 So you got to know Father Peterson at that
19 time?

20 REVEREND DOYLE: I had known Father Peterson
21 previous to that time. We met socially and became friends,
22 but he became involved in that issue at the time.

23 MR. ENGELMANN: And he was the director of
24 Saint Luke's at that time?

25 REVEREND DOYLE: That's correct.

1 **MR. ENGELMANN:** That's the treatment centre
2 in Washington, D.C.?

3 **REVEREND DOYLE:** Yes. At the time, it was
4 in a suburb called Suitland, Maryland, which is near
5 Washington.

6 **MR. ENGELMANN:** All right.

7 And the other person that you co-authored
8 the manual with that we talked about briefly at Tab 3; was
9 he also involved in this Gauthé case?

10 **REVEREND DOYLE:** Yes. He was retained by
11 the Diocese of Lafayette to defend Father Gauthé on the
12 criminal charges. And he became involved because of some -
13 - he discovered that there were several other priests in
14 the diocese that also had been known to be sexually abusing
15 young people. And these were not being disclosed with the
16 diocese, and he felt that was going to cause him serious
17 problems with his negotiations with the District Attorney.

18 **MR. ENGELMANN:** All right.

19 So your work then, sir, you talked about
20 sort of three cases when you were at the Vatican Embassy
21 that started your work on the subject of clergy sexual
22 abuse?

23 **REVEREND DOYLE:** That's right.

24 **MR. ENGELMANN:** How did you engage in
25 further development of your experience or expertise, if I

1 can call it that, in this area from that day forward?

2 **REVEREND DOYLE:** From that day forward,
3 first off, at the time, this was something that was a work
4 in progress. There were developments on a daily basis. We
5 had nothing to fall back on, no precedent.

6 Once it became public, a number of the
7 bishops -- and I was dialoguing with bishops all the time
8 because of my job there -- would ask about it. They were
9 concerned about it. To quote one bishop, he said, "Prior
10 to this we took care of these things quietly. Now we can't
11 do that anymore and I don't know what to do." I was in
12 almost daily communication with Mr. Mouton and Father
13 Peterson and in communication with bishops, and the idea
14 came up for a form of a memo or a manual or something that
15 we could circulate to bishops to assist them with
16 procedures as to what to do.

17 **MR. ENGELMANN:** Was there anything in place
18 in the U.S. at that time?

19 **REVEREND DOYLE:** Nothing. If it was, none
20 of us knew about it, including my boss, the Papal Nuncio.

21 **MR. ENGELMANN:** I'm curious; we've come
22 across a document from 1962 from the Vatican. Was that
23 something that you and your colleagues were familiar with
24 at that time?

25 **REVEREND DOYLE:** I was completely unfamiliar

1 with that document at that time.

2 MR. ENGELMANN: All right.

3 REVEREND DOYLE: I did not become familiar
4 with that until 1998 or '99, I believe.

5 MR. ENGELMANN: All right.

6 And as a result of this Gauthé case, were
7 there other cases that then came to light while you were at
8 the Vatican Embassy that you had to deal with?

9 REVEREND DOYLE: As I recall, between the
10 time that the first publicity concerning the Gauthé
11 situation hit -- and this was national; it wasn't just
12 localized -- from that time, which I would say would be
13 maybe October-November of 1984 and maybe February-March of
14 1985, I believe we had become aware of close to 50
15 different cases in different states in the southwest and
16 others in the United States, and we felt that was a great
17 deal at the time.

18 MR. ENGELMANN: Okay. And as a result of
19 these cases, were you and your colleagues being asked for
20 assistance by dioceses and bishops throughout the United
21 States?

22 REVEREND DOYLE: Bishops began asking --
23 they'd call the Nuncio and they'd ask for some assistance.
24 Father Peterson had been dealing with this problem for some
25 time. He was aware of the fact of priests that were

1 sexually dysfunctional that were referred to him by various
2 bishops, but now it was a public issue. It was becoming
3 publicly known, so we became ---

4 **MR. ENGELMANN:** So what did you do to start
5 developing the precedents and the protocol and your work on
6 this manual?

7 **REVEREND DOYLE:** Well, what I did was simply
8 start researching canon law and pastoral law about what had
9 been done, what to do. We had regular discussions and I
10 also had regular discussions with other bishops, including
11 a couple of cardinals on how best to go about this; what to
12 put together; how to do it. And we ended up deciding to
13 put together what we commonly refer to as The Manual.
14 That's the document that's in this ---

15 **MR. ENGELMANN:** Is that the document at Tab
16 3 or it's a part of it?

17 **REVEREND DOYLE:** Yes, it's got about a
18 three-line title, but we always called it The Manual.

19 **MR. ENGELMANN:** All right.

20 **REVEREND DOYLE:** And that's what it ended up
21 to be.

22 **MR. ENGELMANN:** I notice there's all sorts
23 of different type prints in here?

24 **REVEREND DOYLE:** There are different type
25 faces, different styles, different pagination because

1 things were moving rather rapidly at the time. And we
2 wanted to complete this by May of 1985 in hopes that the
3 American bishops would act upon it and put together some
4 form of protocol. And we did have a procedure in place and
5 ironically the ranking clergyman that I was dealing with
6 for that procedure was Cardinal Bernard Law of Boston who
7 had agreed to sponsor an ad hoc committee in the Bishops'
8 Conference that would deal only with sexual abuse of
9 children by the clergy.

10 **MR. ENGELMANN:** Is that why that date was
11 important? There was an upcoming conference.

12 **REVEREND DOYLE:** The bishops were going to
13 have one of their semi-annual meetings in June of '85, and
14 we wanted to have things in place for them to consider at
15 that stage.

16 **MR. ENGELMANN:** So the manual that we see at
17 Tab 3, were you able to present that either in person or at
18 least in paper to the Bishops' Conference?

19 **REVEREND DOYLE:** I personally gave it to a
20 number of individual bishops. I didn't make a -- I wasn't
21 even sure what the mechanism was to follow and my boss,
22 Cardinal -- now Cardinal Laghi wasn't sure either. He
23 said, "Well, I'll take it over and we'll see what we can
24 do."

25 So that's basically what we did. A number

1 of them did have copies of it.

2 **MR. ENGELMANN:** All right. And sir I'm just
3 -- the parts of it that we do have, at page 80, Tab 3, you
4 have something called a Project Proposal?

5 **REVEREND DOYLE:** Yes, there were three -- I
6 consistently use the term "action proposals" that went with
7 it. One was what was called the Crisis Intervention Team.
8 And you must remember the language -- and this was written
9 at a time when there was no precedent. We were just
10 casting about trying to find the best way to frame this.

11 And we -- our goals were twofold; one was to
12 help the victims, and I was perhaps the least sensitive of
13 the three of us. The other two had had a lot of contact
14 with victims and their families. I was drawn into this a
15 bit later. But to help the victims and secondly to help
16 the institutional church avoid what we saw might turn out
17 to be a major disaster both, public relations-wise,
18 financially and in terms of trust and belief.

19 **MR. ENGELMANN:** All right.

20 **REVEREND DOYLE:** So our action proposals
21 were twofold -- threefold; one was what we call the Crisis
22 Intervention Team, and that was simply men and women in
23 various areas of expertise around the country who would be
24 willing to respond to a request from an individual bishop
25 and the best way I can explain this is by an example.

1 Let's say the Bishop of Des Moines, Iowa, has one or two
2 instances reported to him. He could call the Bishops'
3 Conference to a special office and say, "We've got these
4 problems. Can you help us?"

5 And then the person who was coordinating
6 would be able to say, "Well, I'll notify one, two or three
7 experts who will come there just to recommend to you a
8 procedure how to deal with the media, dealing with the
9 family, dealing with the priest. That was what we called
10 the Crisis Intervention Team. And that would be people
11 around the United States.

12 **MR. ENGELMANN:** And that, sir, to some
13 extent is set out at pages 84 through 87.

14 **REVEREND DOYLE:** I believe so. Then there
15 was another dimension to that; it was the creation of a
16 research protocol. And in some, that amounted to
17 recruiting experts from every area that we believed touched
18 on sexual abuse of children, medical, legal, psychological,
19 moral, scriptural, the whole works. So that the bishops of
20 our country of the United States would have the best
21 possible information on every aspect if this was available
22 to this ---

23 **MR. ENGELMANN:** So you'd have an inter-
24 disciplinary team?

25 **REVEREND DOYLE:** Inter-disciplinary team and

1 to assist them in making any decisions they might make.
2 Just to -- fundamental issues; is this problem on the part
3 of the clergy curable, controllable? What can we do? And
4 what were the effects on the victims and on their families?
5 Things of that nature.

6 **MR. ENGELMANN:** You have a strategy set out
7 and a conclusion and I am not going to go into that in any
8 more detail now.

9 **REVEREND DOYLE:** Okay.

10 **MR. ENGELMANN:** We may go back there later.

11 **REVEREND DOYLE:** Yes. And the third ---

12 **MR. ENGELMANN:** Sorry.

13 **REVEREND DOYLE:** The third aspect was tied
14 in with these and that was the immediate intervention with
15 the family when a report came through. How to go about
16 that so that it would be the most sensitive and effective?

17 **MR. ENGELMANN:** All right. Sir, was this
18 proposal, was you manual accepted that year by the United
19 States Conference of Catholic Bishops?

20 **REVEREND DOYLE:** No, it wasn't.

21 **MR. ENGELMANN:** Was the plan, your goal or
22 your plan was that they would set up a subcommittee that
23 would actually get to work on this and implement status ---

24 **REVEREND DOYLE:** That was our hope and I was
25 led to believe that that would happen because of my

1 conversations with Cardinal Law. We had planned a meeting,
2 the three of us, with the cardinal in Chicago in May of
3 1985 to go over the nuts and bolts, the *minutiae* of the
4 proposals. And he could not make that meeting because of a
5 conflict. So he sent the secretary of his committee,
6 Research and Pastoral Practices, who at the time was
7 Auxiliary Bishop William Levada, who today is the Prefect
8 of the Congregation for the Doctrine of the Faith.

9 **MR. ENGELMANN:** Just ---

10 **REVEREND DOYLE:** We met with him for a day.
11 Everything looked smooth, it looked like it was going to
12 work well. Of the three of us, I guess I was the most
13 perplexed and I'm saying to myself now, what happens now?
14 You know, I was wondering. What are we going to do next?
15 What will happen next?

16 **MR. ENGELMANN:** Well, let's talk about that
17 then.

18 **REVEREND DOYLE:** Okay.

19 **MR. ENGELMANN:** It didn't get adopted?

20 **REVEREND DOYLE:** It didn't get adopted.

21 **MR. ENGELMANN:** Did you just stop your work
22 in this area or did it continue?

23 **REVEREND DOYLE:** No. I was informed about
24 two or three weeks later by Bishop Levada that the proposal
25 was being shelved indefinitely because another committee

1 would take care of this and this proposal was not going to
2 be part of it and that was it.

3 I left the Vatican Embassy in 1986 but
4 because the issue was becoming -- was publicly known, I was
5 asked along with the other two gentlemen to give a number
6 of seminars, workshops around the United States to groups
7 of priests, religious order priests or diocesan priests, on
8 the various aspects of sexual abuse of children. These
9 seminars had a basic format, a legal format to explain what
10 the legality was, the pastoral format and the
11 psychological.

12 **MR. ENGELMANN:** So you were together with
13 two others?

14 **REVEREND DOYLE:** Father Pederson and Mouton.

15 **MR. ENGELMANN:** All right. So an attorney
16 and a psychologist?

17 **REVEREND DOYLE:** Yeah, but some of these
18 seminars, there were others involved. One of the two of
19 them couldn't make it, so we got others.

20 Father Pederson was getting increasingly
21 sick. He died in April of 1987, and he basically stopped -
22 - his last appearance on one of those with us was in
23 Marquette, Michigan, I think it was late in '86.

24 **MR. ENGELMANN:** Okay, so you would have been
25 starting with the Air Force at or about that time?

1 REVEREND DOYLE: Yes.

2 MR. ENGELMANN: But you were teaching or
3 going out to dioceses and orders throughout the country?

4 REVEREND DOYLE: Yes.

5 MR. ENGELMANN: Were these educational
6 seminars?

7 REVEREND DOYLE: Well, they were educational
8 and we had two goals; one was to -- and these were
9 generally when the bishop would ask to have that, they were
10 mandatory. The priests had to go.

11 MR. ENGELMANN: All right.

12 REVEREND DOYLE: And we had two goals; one,
13 we wanted to indicate what this problem is and how serious
14 it is. And we also wanted to present the issue of sexual
15 dysfunction; priests who sexually abuse children and take
16 it out of the moral ground and keep it in the medical
17 ground, so that if there were priests in the audience who
18 actually had these urges, had offended, he might feel -- I
19 don't want to use the word free or comfortable -- but he
20 might feel okay about disclosing himself privately to his
21 bishop and getting help.

22 We had another goal, of course, it was
23 education; indicating how serious this is to take a
24 proactive approach.

25 MR. ENGELMANN: Now, at or about this time,

1 did you also start to assist dioceses or bishops with
2 sexual assault protocols, response protocols?

3 **REVEREND DOYLE:** Yes, around the same time,
4 the other two gentlemen and I began to be asked to help put
5 together various protocols. Actually, the first such
6 protocol came about in the throws of the Gauthé issue with
7 Archbishop Hannan for New Orleans, and I put together a
8 protocol involving a lay board for the ecclesiastical
9 province of New Orleans that would have involved basically
10 many of the things that ended up being in the Crisis Action
11 Proposal.

12 But I was asked -- the three of us were
13 asked, as individuals or as a group, to draft out or assist
14 in putting together policies, protocols for various
15 dioceses and religious orders.

16 **MR. ENGELMANN:** All right. So despite the
17 fact that your manual wasn't adopted by the Conference,
18 there were several diocesan bishops who asked for
19 assistance both with training and for the development of
20 protocols?

21 **REVEREND DOYLE:** Yes, and I understand that
22 The Manual, although it was -- we did send it out to every
23 bishop in December of 1986; every bishop got a copy. That
24 a number of them actually did use it, and I also found out
25 subsequent that it was instrumental in the formation of the

1 Canadian protocol, From Pain to Hope.

2 MR. ENGELMANN: Now, did you get -- because
3 of your work on the manual and because of this educational
4 role, were you asked repeatedly to give talks and to work
5 on protocols?

6 REVEREND DOYLE: Yes.

7 MR. ENGELMANN: And would this have just
8 been in the United States or would it have been elsewhere?

9 REVEREND DOYLE: No, I was asked to go -- in
10 1989, I went to Australia and New Zealand and gave several
11 talks over there and met with several individuals with
12 respect to putting together protocols there. In fact, I
13 remember distinctly sitting down for an afternoon with the
14 Archbishop of Wellington, Cardinal Williams and hammering
15 the whole thing out, one page on the spot.

16 MR. ENGELMANN: All right. What about --
17 you have talked about now some of the work you've done with
18 diocesan bishops or church authorities. What about work
19 with individual priests who may have been abusers?

20 REVEREND DOYLE: Yes.

21 MR. ENGELMANN: Or at least charged with
22 offences?

23 REVEREND DOYLE: Although most of the
24 publicity, the public awareness of what I have done has
25 been related to victims themselves or victims' families, I

1 have also been involved as a support person, pastoral
2 counsellor or a legal advocate or aide for accused priests,
3 going back to probably 1986. Father Pederson began to ask
4 me to go to Saint Luke's to meet with priests there who
5 felt abandoned and lost. Since then I've continued to do
6 that kind of work with accused priests and deacons.

7 **MR. ENGELMANN:** All right.

8 So the work has been originally some legal
9 advocacy work?

10 **REVEREND DOYLE:** Legal advocacy but I always
11 -- I always understood it not simply to be legal advocacy
12 or canonical advocacy but also, what is more important to
13 me was the pastoral support of the man.

14 **MR. ENGELMANN:** I was just going to get
15 there.

16 **REVEREND DOYLE:** Yes.

17 **MR. ENGELMANN:** And a lot of the work has
18 been pastoral in nature?

19 **REVEREND DOYLE:** Yes.

20 **MR. ENGELMANN:** All right.

21 And speaking to the pastoral side, you
22 talked about your three years' experience as a parish
23 priest and your work in the Air Force.

24 **REVEREND DOYLE:** Yes.

25 **MR. ENGELMANN:** Presumably would have done a

1 lot of pastoral care?

2 **REVEREND DOYLE:** You bet I did. In the Air
3 Force, I did a lot of work as a parish priest in the base
4 chapel communities but also the best way to describe what
5 an American chaplain does would be to use the term "street
6 priest". In other words, you're out in the trenches or in
7 the streets whereas we used to say in the Air Force "on the
8 flight line with the troops". I was deployed several
9 times. The last deployment was in Iraq for the war in
10 Iraq. So I did have a great deal.

11 And while in the Air Force, I also
12 experienced a number of instances of people who had been
13 sexually abused by clergy. My name was out there although
14 I never advertised anything. But I was approached by
15 people who had been sexually abused by a clergyman or by
16 chaplains, Air Force chaplains or military chaplains.

17 **MR. ENGELMANN:** So you -- part of that
18 pastoral care -- you would have given pastoral care to
19 victims of abuse or to their families?

20 **REVEREND DOYLE:** Coupled -- yes. Oh,
21 definitely to the families and I also setup a couple of
22 places. We had small support groups where we would meet
23 regularly with the victims themselves; very, very
24 confidentially but we would meet and help them.

25 **MR. ENGELMANN:** All right.

1 And for how long would you say you have done
2 pastoral care work with victims of abuse and their
3 families?

4 **REVEREND DOYLE:** The earliest that I can
5 recall would have been 1987 when I met some young, young
6 boys who had been sexually abused. And that was an event
7 that I would say changed my life forever, meeting them; up
8 until the present.

9 **MR. ENGELMANN:** All right.

10 So for the last 20 years?

11 **REVEREND DOYLE:** Yes.

12 **MR. ENGELMANN:** And your work with priests
13 who were accused or abusers, pastoral care with them has
14 that continued for some time?

15 **REVEREND DOYLE:** Yes. It still goes on.

16 **MR. ENGELMANN:** All right.

17 Have you ever worked with bishops or church
18 superiors in that form, providing pastoral care in these
19 types of situations?

20 **REVEREND DOYLE:** In the early years I did.
21 Informally, when I am still in the embassy and for a few
22 years thereafter, I would talk with bishops and they would
23 share some of their fears, their problems and, you know,
24 their misgivings about this whole thing.

25 **MR. ENGELMANN:** In your work as a military

1 chaplain, you have talked to us about the pastoral side of
2 things; were you ever involved in crisis response teams or
3 sexual response teams?

4 **REVEREND DOYLE:** Just about every base to
5 which I was assigned because of my background, I was
6 appointed a member of -- we call them family advocacy teams
7 but also crisis response teams for sexual abuse -- sexual
8 abuse response teams in which I worked with a team on the
9 base to respond to sexual abuse with the family, with the
10 victims. But because I was a chaplain I also had a direct
11 involvement with the accused; went to several court
12 martials; visited them in military prisons when they were
13 convicted and so on.

14 **MR. ENGELMANN:** All right.

15 So just to go back for a moment, your work
16 on developing policies and procedures for dealing with
17 cases of clergy sexual abuse for a diocese and religious
18 orders, that would have been in the United States. Would
19 that have been in other countries as well?

20 **REVEREND DOYLE:** It was in the United States
21 and in Australia and New Zealand and I'm trying to remember
22 if I ever did anything directly for a Canadian diocese. I
23 may have been -- I do recall speaking on more than one
24 occasion with chancellors or vicars-general of dioceses who
25 would call and we would just discuss various aspects of it

1 but I don't -- I can't recall who because it was so long
2 ago.

3 **MR. ENGELMANN:** And the work you've done
4 delivering lectures in seminars for clergy and lay groups
5 in this area, that's been in the United States?

6 **REVEREND DOYLE:** United States. I have
7 spoken in Ireland, Australia and New Zealand as well.

8 **MR. ENGELMANN:** You done any of that in this
9 country, to your knowledge?

10 **REVEREND DOYLE:** I think I gave -- I gave a
11 couple of talks, I believe, or seminars at canon law
12 conventions in Canada, I believe. I'd have to go back and
13 look but -- and I could be corrected on that but this is --
14 -

15 **MR. ENGELMANN:** Have you done any of this
16 work on -- and again, it's dealing with the policies,
17 protocols, et cetera for dealing with these cases, with any
18 state legislatures in the United States?

19 **REVEREND DOYLE:** Yes, I've appeared as an
20 expert witness before the legislatures of several states.
21 And my purpose -- and my role there was to speak in favour
22 of changes in legislation that would be more favourable to
23 children, protective of children in the area of child
24 abuse, and not church but across the board.

25 The earliest was, I believe, 1988 I was

1 asked to speak before the Legislature of the State of
2 Pennsylvania.

3 **MR. ENGELMANN:** All right.

4 **REVEREND DOYLE:** And since then several
5 others.

6 **MR. ENGELMANN:** In that type of work, excuse
7 my ignorance, would it be before a full state legislature
8 or would it be a judiciary committee? Would you be
9 qualified ---

10 **REVEREND DOYLE:** Could be both; I have
11 spoken before judiciary committees. It would depend on
12 where the bill, so to speak, was in the process.
13 Generally, before the judiciary committee but I've also
14 spoken before the Senate and the House of Representatives
15 of several states. Some states only have a unicamera
16 legislature so I have spoken before them as well.

17 **MR. ENGELMANN:** All right.

18 Now, sir, you have -- you have given a
19 number of talks and/or presentations on the subject matter
20 of clergy sexual abuse and its effects?

21 **REVEREND DOYLE:** Yes.

22 **MR. ENGELMANN:** You have written a number of
23 articles?

24 **REVEREND DOYLE:** Yes, I have.

25 **MR. ENGELMANN:** And you have also co-

1 authored texts or chapters in books?

2 REVEREND DOYLE: That's correct.

3 MR. ENGELMANN: And if we wanted to look at
4 some of those they are set out on page -- I'm at Tab 1,
5 pages four through six.

6 REVEREND DOYLE: Oh, the list?

7 MR. ENGELMANN: Yes.

8 REVEREND DOYLE: Okay.

9 MR. ENGELMANN: Is that correct?

10 REVEREND DOYLE: Those are -- yes, those are
11 three of them.

12 MR. ENGELMANN: I'm looking at -- I'm
13 looking in Tab 1.

14 REVEREND DOYLE: Okay.

15 MR. ENGELMANN: Page four.

16 REVEREND DOYLE: Oh, I'm sorry. I'm on the
17 wrong page.

18 Yes, four through six is my bibliography and
19 included in that are several of the articles or
20 contributions to anthologies that I have done.

21 MR. ENGELMANN: And sir, you have recently
22 been a co-author of a text entitled Sex, Priests and Secret
23 Codes?

24 REVEREND DOYLE: That's correct.

25 MR. ENGELMANN: Which talks about a

1 historical overview of sexual abuse?

2 REVEREND DOYLE: Actually, it's an
3 historical book in spite of the rather tricky title which I
4 was not responsible for, by the way. It's an historical
5 development overview of the issue.

6 MR. ENGELMANN: Sir, in addition to your
7 education and your training that you've listed, I
8 understand that you're also -- and you have studied
9 addictions therapy ---

10 REVEREND DOYLE: Yes, I have.

11 MR. ENGELMANN: --- at the Naval School of
12 Health Sciences?

13 REVEREND DOYLE: That's correct.

14 MR. ENGELMANN: And that you're a fully
15 certified alcohol, drug and addiction therapist?

16 REVEREND DOYLE: That's correct.

17 MR. ENGELMANN: You got your training
18 between 1980 -- sorry, 1998 and 2000?

19 REVEREND DOYLE: That's right.

20 MR. ENGELMANN: And since then you've worked
21 as a drug -- sorry -- alcohol, drug and addictions
22 therapist?

23 REVEREND DOYLE: With individuals, with
24 families, yes.

25 MR. ENGELMANN: Has there been some overlap

1 between that work and your work with victims of child
2 sexual abuse?

3 **REVEREND DOYLE:** Yes, there has because
4 there is alcohol abuse directly involved in a lot of it.
5 I've been involved with victims, tried to provide
6 assistance for many victims who've experienced alcohol or
7 drug abuse as part of their odyssey, so to speak, and also,
8 with some of the accused perpetrating priests.

9 **MR. ENGELMANN:** If I could just have a
10 minute, sir.

11 **THE COMMISSIONER:** M'hm.

12 **(SHORT PAUSE/COURTE PAUSE)**

13 **MR. ENGELMANN:** Sir, I'm going to ask you in
14 a minute about where you may have been qualified as an
15 expert, but before doing that I want to ask you a few
16 questions about Cornwall.

17 **REVEREND DOYLE:** Sure.

18 **MR. ENGELMANN:** You understand, sir, you're
19 not here to testify about anything that's specific to
20 Cornwall?

21 **REVEREND DOYLE:** I understand that.

22 **MR. ENGELMANN:** And you're really here to
23 talk about the institutional response of the Catholic
24 Church at various levels and its structure to allegations
25 of clergy sexual abuse of minors?

1 **REVEREND DOYLE:** That's what my
2 understanding is, that this has nothing to do with Cornwall
3 except that we're here.

4 **MR. ENGELMANN:** All right.

5 **REVEREND DOYLE:** And that I would say as we
6 formulated this, I see my role as trying to provide as
7 objectively as possible my own experience, what I've
8 studied and what I've learned, not with a view of indicting
9 anyone, but with a hope for something that's positive for
10 the future.

11 **MR. ENGELMANN:** All right.

12 **REVEREND DOYLE:** So we can learn from where
13 we've been.

14 **MR. ENGELMANN:** And you understand, sir,
15 that what we're doing here in this Inquiry is examining the
16 institutional response of a variety of public institutions
17 to allegations of child sexual abuse?

18 **REVEREND DOYLE:** I understand that and,
19 academically, that's something I'm very much interested in
20 because of the fact that this -- the Catholic Church is a
21 political institution. Other institutions have the same
22 issues and ---

23 **MR. ENGELMANN:** With a goal, of course, to
24 give some recommendations at the end about how to perhaps
25 prevent this problem or, if it exists, how to deal with it

1 better ---

2 REVEREND DOYLE: I hope so.

3 MR. ENGELMANN: --- from across the board.

4 REVEREND DOYLE: Precisely.

5 MR. ENGELMANN: So with that in mind, sir, I
6 understand that you did spend some of your youth in this
7 area?

8 REVEREND DOYLE: I did.

9 MR. ENGELMANN: And can you tell us how that
10 came to be, because you are American-born and you are an
11 American.

12 REVEREND DOYLE: My father worked for a
13 corporation that had a branch in Canada, and we lived in
14 Ogdensburg, which I'm sure many of you heard down the line.

15 MR. ENGELMANN: That's across the river --

16 -

17 REVEREND DOYLE: Across the river.

18 MR. ENGELMANN: --- from Prescott?

19 REVEREND DOYLE: From Prescott.

20 MR. ENGELMANN: Yes.

21 REVEREND DOYLE: And then in, I believe '58
22 or so, we moved to Cornwall and lived in Riverdale.

23 MR. ENGELMANN: And approximately how old
24 were you then, sir?

25 REVEREND DOYLE: I think about 13 or 14.

1 **MR. ENGELMANN:** All right.

2 **REVEREND DOYLE:** I'm 63 now, so you've got
3 to remember, you know, anything before 50 is hazy.

4 **MR. ENGELMANN:** Well, that's a milestone
5 that I've just reached.

6 **THE COMMISSIONER:** I didn't know you were
7 63, Mr. Engelmann.

8 **MR. ENGELMANN:** Thank you. I was talking
9 about 50.

10 **THE COMMISSIONER:** Ah.

11 **REVEREND DOYLE:** As a matter of fact, I sang
12 in the choir at Nativity Church down the block here.

13 **MR. ENGELMANN:** All right.

14 Well, I was just going to ask you that, sir.
15 Were you involved at all in a Roman Catholic Church here in
16 the city when you lived here?

17 **REVEREND DOYLE:** Yes, we were members at, I
18 believe -- we belonged to -- we went to St. Columban's for
19 the most part, but I was in a choir at Nativity because
20 some of my friends were in the choir and they recruited me.

21 **MR. ENGELMANN:** All right.

22 **REVEREND DOYLE:** But I also was an altar
23 server at St. Columban's and, in fact, I celebrated my
24 first mass at St. Columban's.

25 **MR. ENGELMANN:** And for how many years did

1 you and your family live in the Cornwall area?

2 **REVEREND DOYLE:** We moved from here to a
3 suburb of Montreal in, I think -- I think it was in the
4 '60s, but I'm hard pressed to tell you when. We lived in
5 the Montreal area when I was ordained, but I came back here
6 for my first mass.

7 **MR. ENGELMANN:** And -- sorry.

8 **THE COMMISSIONER:** Sorry, you were ordained
9 in Canada?

10 **REVEREND DOYLE:** I was ordained in Iowa.

11 **THE COMMISSIONER:** Oh, Iowa.

12 **REVEREND DOYLE:** But the custom was you were
13 ordained and then you usually go to your home for your
14 first mass, and because I had homes all over the place, I
15 wanted to come back here, so I did.

16 **MR. ENGELMANN:** Okay, so '58 until
17 approximately when?

18 **REVEREND DOYLE:** Late '60s maybe.

19 **MR. ENGELMANN:** So about 10 years?

20 **REVEREND DOYLE:** We lived in Canada for 10
21 years. We only lived in Cornwall for maybe four or five, I
22 think.

23 **MR. ENGELMANN:** And where did you live after
24 that?

25 **REVEREND DOYLE:** In -- well, my family lived

1 near Montreal in a little town called Baie d'Urfé, which is
2 near Beaconsfield.

3 MR. ENGELMANN: Yes.

4 REVEREND DOYLE: And I was -- by that time I
5 joined the Dominican Order, so I was living in the United
6 States.

7 MR. ENGELMANN: All right.

8 So you were in Cornwall for approximately
9 four years?

10 REVEREND DOYLE: I think around there, yeah.

11 MR. ENGELMANN: All right.

12 And, sir, in or about the year 2000 did you
13 have any involvement with a victims group or a website
14 operator here in the City of Cornwall?

15 REVEREND DOYLE: Yes, I did. I don't
16 remember what initiated the contact, something did, and I
17 don't remember what it was, and I, at the time, had some
18 communication with a gentleman and I was given some
19 information that perhaps wasn't complete. Anyway, I sent
20 him some -- what I would consider now to be impertinent
21 emails, and they ended up on a website which I did not plan
22 on.

23 MR. ENGELMANN: All right.

24 REVEREND DOYLE: I gave him permission to
25 share these and in retrospect even that was a mistake, but

1 they did end up on a website.

2 MR. ENGELMANN: All right.

3 Did you know when you gave him permission to
4 share something that it was going to end up on a website?

5 REVEREND DOYLE: No, I did not. And I
6 understand now that -- I'm very careful right now because I
7 just found out last night something I had shared that I
8 thought would be privately with some people has ended up on
9 a website.

10 MR. ENGELMANN: All right.

11 Sir, despite the fact that you have -- well,
12 let me ask you this. You have been qualified to give
13 evidence as an expert witness.

14 REVEREND DOYLE: Yes, I have.

15 MR. ENGELMANN: Is that correct?

16 REVEREND DOYLE: That's correct.

17 MR. ENGELMANN: And -- I'll just be a
18 moment.

19 (SHORT PAUSE/COURTE PAUSE)

20 MR. ENGELMANN: I'm looking at Tab 2, sir,
21 of Exhibit I-636.

22 REVEREND DOYLE: Tab 2.

23 MR. ENGELMANN: Yes, third paragraph. This
24 is the biographical sketch.

25 REVEREND DOYLE: Oh, okay, I'm sorry. Yes.

1 **MR. ENGELMANN:** You say you've been
2 qualified as an expert in the following areas: canon law;
3 church governmental structures; penal processes; rights and
4 obligations of clerics?

5 **REVEREND DOYLE:** That's true.

6 **MR. ENGELMANN:** Those are all correct?

7 **REVEREND DOYLE:** That's correct.

8 **MR. ENGELMANN:** And you've also been
9 qualified as an expert in the spiritual and pastoral
10 dimensions of clergy sexual abuse?

11 **REVEREND DOYLE:** That's correct.

12 **MR. ENGELMANN:** And you've also been
13 qualified as an expert in the historical background of
14 clergy sexual abuse in the U.S.?

15 **REVEREND DOYLE:** Not just in the U.S. but
16 that's where most -- in Ireland as well.

17 **MR. ENGELMANN:** So in the historical
18 background of clergy sexual abuse?

19 **REVEREND DOYLE:** That's right.

20 **MR. ENGELMANN:** All right.

21 And can you give us a sense as to what types
22 of cases you would have been qualified in? And let me just
23 give some examples. You told us you've been qualified as
24 an expert witness to testify before state legislatures?

25 **REVEREND DOYLE:** That's correct.

1 **MR. ENGELMANN:** Have you been -- have you
2 ever been called as an expert witness in a criminal case of
3 any sort?

4 **REVEREND DOYLE:** Yes, I have, in two -- in
5 fact, I am still -- right now I'm still listed as an expert
6 witness in two pending criminal cases in the United States.

7 **MR. ENGELMANN:** Now, would these -- and who
8 would have engaged you to give expert evidence?

9 **REVEREND DOYLE:** In one instance it was the
10 District Attorney of the county and the other instance it
11 was the State's Attorney of the geographic area.

12 **MR. ENGELMANN:** And would that have been
13 involving the prosecution of a member of the clergy?

14 **REVEREND DOYLE:** Yes. I take that back; I
15 was an expert witness in two, but I've been a consultant in
16 a couple more.

17 **MR. ENGELMANN:** All right.

18 **REVEREND DOYLE:** And they are criminal
19 prosecutions, yes.

20 **MR. ENGELMANN:** All right.

21 And have you ever been engaged either as an
22 expert or as a consultant in one of the grand juries that
23 we're familiar with that have taken place in the United
24 States?

25 **REVEREND DOYLE:** Yes, I have.

1 **MR. ENGELMANN:** Involving clergy sexual
2 abuse?

3 **REVEREND DOYLE:** Involving clergy sexual
4 abuse, as a consultant and as an expert.

5 **MR. ENGELMANN:** And who would you have been
6 engaged by in those cases?

7 **REVEREND DOYLE:** In all instances, the
8 initial engagement came from the District Attorney, who
9 convenes the Grand Jury.

10 **MR. ENGELMANN:** All right.

11 And, sir, have you also been engaged in
12 civil cases? When I say civil cases, civil litigation
13 involving victims, priests in the diocese?

14 **REVEREND DOYLE:** Okay. Can I just clarify
15 what I understand civil litigation to be to make sure?

16 **MR. ENGELMANN:** Yes.

17 **REVEREND DOYLE:** Because I know we're both
18 in a common law system. By civil litigation I mean
19 litigation in the United States where people are suing an
20 entity or a person ---

21 **MR. ENGELMANN:** Right.

22 **REVEREND DOYLE:** --- for civil monetary
23 damages or some other non-judicial relief of something.

24 **MR. ENGELMANN:** Yes.

25 **REVEREND DOYLE:** Yes, injunctive relief.

1 Yes, I have been in a number of instances. I've been
2 qualified as an expert in, I believe, 15 trials in the
3 United States. Well, I've testified at 15 different
4 trials. Most of the cases I've been involved in have not
5 ended up in a trial but in some form of negotiated
6 settlement. I've functioned as a -- I've assisted in
7 mediations and in negotiations, but I've also been both a
8 consultant and a proved expert in a number of cases.

9 **MR. ENGELMANN:** Have you testified as an
10 expert and been qualified as an expert in this country?

11 **REVEREND DOYLE:** Yes, I have.

12 **MR. ENGELMANN:** And do you remember which
13 province that was in?

14 **REVEREND DOYLE:** Yes, it was in the Province
15 of Ontario. It was in London and it was in 2003, and I
16 actually testified in London at the trial, testified for, I
17 believe, two days back in September of 2003.

18 **MR. ENGELMANN:** And you were qualified as an
19 expert in what there, do you remember?

20 **REVEREND DOYLE:** I think the same areas,
21 canon law, you know, the history of this issue, response
22 and so on.

23 **MR. ENGELMANN:** All right.

24 And, sir, have you ever been qualified as an
25 expert to testify on any of these issues in other countries

1 as well?

2 REVEREND DOYLE: I have been qualified as an
3 expert in Ireland in several trials in Ireland, civil
4 trials.

5 MR. ENGELMANN: Would it be fair to say,
6 sir, in those civil trials that you have either acted
7 exclusively or primarily for victims or alleged victims?

8 REVEREND DOYLE: Yes, for the plaintiffs.

9 MR. ENGELMANN: Okay. And have you been --
10 so you've talked to us about working for District
11 Attorneys. You've worked for victims as plaintiffs. Have
12 you been qualified or have you been engaged as an expert on
13 behalf of individual priests, or have you assisted them in
14 these types of cases?

15 REVEREND DOYLE: I have assisted them not in
16 civil cases but in canonical proceedings.

17 MR. ENGELMANN: All right.

18 Okay. But not in a civil trial ---

19 REVEREND DOYLE: Not in a civil trial.

20 MR. ENGELMANN: --- or a criminal trial?

21 REVEREND DOYLE: No. Well, I would like to
22 take that back. I've been consulted by attorneys who have
23 represented priests in maybe three or four times in
24 criminal procedures and asked for feedback information, but
25 it wasn't such that my expertise would have been acceptable

1 or helpful.

2 One of them actually involved a -- no, that
3 was another type of case. I'm sorry. Yes, just as a
4 consultant maybe three or four times for priests in
5 criminal trials.

6 What I started to say was I was involved in
7 a death penalty case in Texas as a consultant, but that was
8 not a priest, it was a murderer.

9 **MR. ENGELMANN:** All right.

10 Sir, you talked to us about work you did
11 much earlier for Diocese or Diocese officials with respect
12 to protocols and policies, et cetera.

13 **REVEREND DOYLE:** Yes.

14 **MR. ENGELMANN:** Have you ever appeared as an
15 expert or acted as a consultant for a Diocese ---

16 **REVEREND DOYLE:** No, I haven't.

17 **MR. ENGELMANN:** --- or Diocese officials?

18 **REVEREND DOYLE:** No, I haven't.

19 **MR. ENGELMANN:** All right.

20 So your work has been predominately for --
21 when it comes to civil litigation, for victims or alleged
22 victims of sexual abuse by clergy?

23 **REVEREND DOYLE:** Yes. And let me just say
24 that I have never been asked by a Diocese and had I been
25 asked I would have responded affirmatively to assist.

1 **MR. ENGELMANN:** And, sir, would you --
2 you've also, aside from presentations and consultancies and
3 working as an expert witness, you have been interviewed on
4 many occasions?

5 **REVEREND DOYLE:** I've been -- yes, by media.
6 I've been in documentaries. Yeah.

7 **MR. ENGELMANN:** And in doing so have you
8 spoken out -- have you spoken your views on this problem of
9 clergy sexual abuse of minors?

10 **REVEREND DOYLE:** I've spoken very directly
11 and sometimes very passionately and very critically of the
12 institutional Church and the way it's responded to the
13 sexual abuse of minors. Yes.

14 **MR. ENGELMANN:** Despite those interviews and
15 those compassionate talks, you -- maybe I won't ask that
16 question. I was going to ask -- no, that's fine.

17 **REVEREND DOYLE:** Go ahead. I'll try. If
18 you want to know why, I mean, one of the reasons has been
19 to inflame action, to get something going. You know, I've
20 had direct dealings with victims from age 10 to 92 for
21 years.

22 And I might also say that it has touched my
23 own family, my immediate family, and I've seen what sexual
24 abuse can do to a family first hand, including myself.
25 I've never been sexually abused, but I could not walk away

1 from those consistent experiences, especially with mothers
2 and fathers, and not become somewhat passionate.

3 **MR. ENGELMANN:** All right.

4 And you continue to be passionate in your
5 pastoral care ---

6 **REVEREND DOYLE:** Yes.

7 **MR. ENGELMANN:** --- for both victims of
8 child sexual abuse and abusers themselves?

9 **REVEREND DOYLE:** I have just -- I have a
10 significant -- a great deal of compassion and my heart
11 bleeds for many of them. And even though I don't agree at
12 all with what they've done and I get furiously angry
13 sometimes when I deal with victims, but the men who have
14 done it, the ones I've known, have affected me deeply
15 because their lives are also ruined and they -- I still say
16 they're human beings, they're brother Christians and
17 brother priests and they're in deep pain.

18 **MR. ENGELMANN:** Sir, to your knowledge, when
19 you've been engaged in any form of litigation and been
20 proffered as a potential expert, have you ever not been
21 qualified?

22 **REVEREND DOYLE:** Yes, at least three and
23 possibly four times I've been disqualified and in each of
24 those instances -- one was in El Paso Texas, one was in New
25 Jersey I think in the Camden area. I'm not sure which

1 district it was. Once in California and partially
2 disqualified in another case in California. It was all on
3 what we call first amendment issues, Church/state. And
4 because I was going in as a canon law expert the judges
5 were fearful that they would be asked to interpret canon
6 law, which would be of course -- set them up for a reversal
7 on appeal.

8 **MR. ENGELMANN:** So did your lack of getting
9 qualified have anything to do with your qualifications or
10 your views on this topic?

11 **REVEREND DOYLE:** No, absolutely not.

12 **THE COMMISSIONER:** So you weren't questioned
13 or refused on the basis of bias?

14 **REVEREND DOYLE:** I'm sorry, sir?

15 **THE COMMISSIONER:** On the basis of bias.

16 **REVEREND DOYLE:** No, it was because of the
17 subject matter itself, because it's a Church law and it all
18 had to do with Church/state separation issues in the United
19 States.

20 **THE COMMISSIONER:** M'hm. So you were not
21 qualified -- were they sex abuse cases of ---

22 **REVEREND DOYLE:** Yes, they were.

23 **THE COMMISSIONER:** Okay.

24 **MR. ENGELMANN:** Mr. Commissioner, those are
25 my questions for the witness.

1 **THE COMMISSIONER:** Thank you.

2 **MR. ENGELMANN:** As I've said, I propose to
3 qualify him as an expert in canon law ---

4 **THE COMMISSIONER:** M'hm.

5 **MR. ENGELMANN:** --- and the historical
6 background of clergy and sexual abuse with a particular
7 interest in the spiritual and pastoral dimensions of clergy
8 sexual abuse.

9 **THE COMMISSIONER:** Okay. So now how do you
10 want to proceed? Do we go through the same order or should
11 we let Mr. Sherriff-Scott go first, last, whatever?

12 **MR. ENGELMANN:** I'm in your hands, sir.

13 **THE COMMISSIONER:** Any preference, Mr.
14 Sherriff-Scott?

15 **MR. SHERRIFF-SCOTT:** Good afternoon, Mr.
16 Doyle.

17 My name is David Sherriff-Scott. I act for
18 the local Diocese.

19 I'm just going to have -- the Commissioner
20 and I have an exchange about the question of proceeding in
21 terms of the qualification question line. We have a cue
22 that we usually follow.

23 I would say in the normal course if people
24 object to the qualifications of the witness then they
25 cross-examine the witness.

1 **THE COMMISSIONER:** M'hm.

2 **MR. SHERRIFF-SCOTT:** If they don't object
3 then they don't. The person -- so if they don't object
4 they don't and Mr. Engelmann can reply after I am finished.

5 **THE COMMISSIONER:** Fair enough. All right.
6 Mr. Wardle, do you have any questions of
7 this witness with respect to his expertise?

8 **MR. WARDLE:** No, I don't, sir.

9 **THE COMMISSIONER:** Thank you.

10 Mr. Talach or Mr. Lee?

11 **MR. LEE:** Nothing, sir.

12 **THE COMMISSIONER:** Thank you.

13 Mr. Bennett?

14 **MR. BENNETT:** No questions.

15 **THE COMMISSIONER:** All right.

16 Mr. Chisholm?

17 **MR. CHISHOLM:** No, sir.

18 Thank you.

19 **THE COMMISSIONER:** Mr. Rose?

20 **MR. ROSE:** None, sir.

21 Thank you.

22 **THE COMMISSIONER:** Mr. Im -- Ms. Im. Sorry.

23 **MS. IM:** That's quite all right.

24 No questions, thanks.

25 **THE COMMISSIONER:** Okay. It's like taking

1 role call I think.

2 Ms. Robitaille?

3 **MS. ROBITAILLE:** No questions.

4 Thank you.

5 **THE COMMISSIONER:** Mr. Sherriff-Scott?

6 **MR. SHERRIFF-SCOTT:** Mr. Crane I think.

7 **THE COMMISSIONER:** I'm sorry.

8 Mr. Crane?

9 **MR. CRANE:** No questions.

10 Thank you.

11 **THE COMMISSIONER:** Ms. Brannan?

12 **MS. BRANNAN:** We take no position.

13 **THE COMMISSIONER:** Mr. Carroll?

14 **MR. CARROLL:** No questions.

15 Thanks.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Sherriff-Scott?

18 **MR. ENGELMANN:** Just before Mr. Sherriff-

19 Scott proceeds then I ---

20 **THE COMMISSIONER:** Sorry, Mr. Sherriff-

21 Scott.

22 **MR. ENGELMANN:** I'm going to make a
23 presumption. I hope it's -- that no one else is objecting
24 to the qualification. If they were they would be putting
25 forward questions presumably.

1 **THE COMMISSIONER:** I don't know.

2 Is there anybody else opposing having this
3 witness qualified as an expert in the area?

4 Silence is golden. Mr. Sherriff-Scott is
5 the voice in the darkness.

6 **MR. SHERRIFF-SCOTT:** As usual.

7 **THE COMMISSIONER:** Not at all, Mr. Sherriff-
8 Scott. I remember once or twice when other people agreed
9 with you.

10 **MR. SHERRIFF-SCOTT:** I thought you were
11 going to say once or twice when we actually agreed on
12 something.

13 **THE COMMISSIONER:** Including myself.

14 Excuse me, Father Doyle. We sometimes
15 banter a little bit. It's just we've been here for two
16 years so ---

17 **REVEREND DOYLE:** I understand.

18 **THE COMMISSIONER:** Thank you.

19 ---CROSS-EXAMINATION ON QUALIFICATIONS BY/CONTRE-
20 INTERROGATOIRE SUR QUALIFICATIONS PAR MR. DAVID SHERRIFF-
21 SCOTT:

22 **MR. SHERRIFF-SCOTT:** Father Doyle, I just --
23 in an unusual way I'd like to transmit to you directly
24 where I'm going because first of all you're a very bright
25 man and secondly you've testified before and so I'm not

1 going to be fooling you with any lengthy foundation
2 scenarios to spring a trap.

3 So let's talk about what I'm going to ask
4 you about so that we're both on the same page and you know
5 where I'm going and we can deal with it quickly.

6 I'm not going to try and undermine your
7 educational experience, the work you've done with victims
8 and all of that experience that's been tendered and
9 referred to, which is obviously significant and valuable.

10 What I want to talk to you about is what I
11 would describe as a concern that has developed in terms of
12 your public utterances, and otherwise about an issue of
13 even-handedness which I consider to be sort of the hallmark
14 of expert testimony, and that's not an affront or intended
15 to be an affront to you but simply to explore the issue of
16 that point with you so the Commissioner can make decisions
17 that are appropriate. Okay?

18 **REVEREND DOYLE:** Sure.

19 **MR. SHERRIFF-SCOTT:** In that vein, I've
20 handed up a Motion Record and there are some documents in
21 it, and I'm hoping that you have a copy of that.

22 **THE COMMISSIONER:** Madam Clerk, do we have
23 an extra copy for the witness?

24 **MR. SHERRIFF-SCOTT:** It should have numbered
25 pages.

1 **THE COMMISSIONER:** Numbered pages.

2 **MR. SHERRIFF-SCOTT:** That's Exhibit M9-A1.

3 Now, Father Doyle, before we get to specific
4 pages this was prepared with some haste, unfortunately, and
5 so it has been hand numbered. And so if you look at Tab 2,
6 just so that you can follow me along, you'll see there's an
7 affidavit. And at the end of that affidavit it's got a
8 typed page, written number 5 in the upper middle of the
9 page, and then the pages that follow are numbered in hand,
10 and I'm hoping your copy has that on it.

11 **REVEREND DOYLE:** Yes, okay. I've got one
12 that has -- it goes like -- it's ---

13 **MR. SHERRIFF-SCOTT:** If you go to Tab 2 --
14 -

15 **THE COMMISSIONER:** He might have the
16 authorities.

17 **REVEREND DOYLE:** I've got two books here.

18 **THE COMMISSIONER:** Yes. One is a book of
19 authorities you don't need.

20 **MR. SHERRIFF-SCOTT:** Okay. You should have
21 this. It's called ---

22 **REVEREND DOYLE:** I've got M9-A1.

23 **THE COMMISSIONER:** That's the one.

24 **MR. SHERRIFF-SCOTT:** --- Motion Record.

25 **THE COMMISSIONER:** That's right.

1 REVEREND DOYLE: Okay. I've got that.

2 MR. SHERRIFF-SCOTT: So just toss the
3 authorities for the moment. You won't need that.

4 REVEREND DOYLE: Okay. That's tossed.

5 MR. SHERRIFF-SCOTT: What you need is, if
6 you look at Tab 2 ---

7 REVEREND DOYLE: Okay.

8 MR. SHERRIFF-SCOTT: --- you'll see an
9 affidavit of a Giselle Levesque, and at the end of her
10 affidavit, which is five pages, you'll see the page number
11 in the upper middle, page 5, typed.

12 REVEREND DOYLE: Yes.

13 MR. SHERRIFF-SCOTT: What follows are the
14 pages that are numbered thereafter in hand.

15 REVEREND DOYLE: Okay.

16 MR. SHERRIFF-SCOTT: Are your pages
17 numbered?

18 REVEREND DOYLE: Yes, they are. They go
19 from 6 to ---

20 MR. SHERRIFF-SCOTT: About 120-odd.

21 REVEREND DOYLE: Nineteen (19).

22 MR. SHERRIFF-SCOTT: Yes, thereabouts.
23 Okay. I just wanted to make sure you had that so that we
24 can follow along with each other.

25 REVEREND DOYLE: Okay.

1 **MR. SHERRIFF-SCOTT:** So I'm going to start
2 sort of at the back of the book, which is page 110.

3 **REVEREND DOYLE:** Okay.

4 **MR. SHERRIFF-SCOTT:** And we talked -- or you
5 talked with Mr. Engelmann about the subject of your
6 exchange of emails with this website operator in Cornwall
7 in or around 2000.

8 **REVEREND DOYLE:** Correct.

9 **MR. SHERRIFF-SCOTT:** Now, could you take a
10 moment and look at page 110 and following for the three
11 pages that are encased there and let me know whether or not
12 that comports with your recollection as being emails you
13 would have sent to this individual, Mr. Nadeau? My
14 information is they were.

15 **REVEREND DOYLE:** It's been a long time since
16 I've seen them, but I'll affirm it.

17 **MR. SHERRIFF-SCOTT:** Well, why don't you
18 read them because we're going to talk about them?

19 **REVEREND DOYLE:** Okay.

20 **MR. SHERRIFF-SCOTT:** Why don't you read it
21 over?

22 **REVEREND DOYLE:** Okay.

23 **MR. SHERRIFF-SCOTT:** If you haven't looked
24 at it in a long time, just spend a moment and read it,
25 because I'm going to ask you questions about the textual

1 portions of it, not just to identify it.

2 And that's -- it starts, just for the
3 record, Mr. Doyle, and keep reading, September 14th, 2000.

4 REVEREND DOYLE: Okay.

5 MR. SHERRIFF-SCOTT: Sorry, Father Doyle.

6 (SHORT PAUSE/COURTE PAUSE)

7 MR. SHERRIFF-SCOTT: Have you read that?

8 REVEREND DOYLE: Yes.

9 MR. SHERRIFF-SCOTT: Okay. Now, I know that
10 -- first of all, these are the emails in question that you
11 debated with Mr. Engelmann?

12 REVEREND DOYLE: I believe so, yes.

13 MR. SHERRIFF-SCOTT: Okay. You don't have
14 any reason to believe they're not?

15 REVEREND DOYLE: No.

16 MR. SHERRIFF-SCOTT: Okay. And you
17 indicated that you expressed some regret regarding the fact
18 that they ended up on the website. Why is it that you
19 regretted that; because the frankness of your views were
20 exposed or for other reasons?

21 REVEREND DOYLE: They were personal to him,
22 and I -- as I look back now, because I didn't want -- it
23 was a personal communication, not for public consumption,
24 and at the time, I was -- I admit I was a bit naïve about
25 how the web worked. I mean, you say something today and 15

1 minutes later the world can know it.

2 **MR. SHERRIFF-SCOTT:** Just like Miss
3 Louisiana on YouTube. It's everywhere all at once.

4 **REVEREND DOYLE:** That's correct.

5 **MR. SHERRIFF-SCOTT:** Right. You know where
6 the United States is.

7 **REVEREND DOYLE:** Yes.

8 **MR. SHERRIFF-SCOTT:** Okay. So
9 notwithstanding the fact that you were naïve about it, it
10 was personal. That doesn't mean it didn't encapsulate your
11 views at the time. You were writing what you considered to
12 be your personal views?

13 **REVEREND DOYLE:** At the time.

14 **MR. SHERRIFF-SCOTT:** At the time.

15 And at the time, if we can look at the first
16 paragraph, you refer to the fact that you had extensive
17 involvement in the issue for 15 years-odd, and you said
18 that you were fascinated and shocked by what you read.
19 Now, what you had read is portions of the website that was
20 then up and running; is that right?

21 **REVEREND DOYLE:** Not only that but in
22 general.

23 **MR. SHERRIFF-SCOTT:** In general? I'm sorry,
24 what do you mean?

25 **REVEREND DOYLE:** About sexual abuse in

1 general.

2 **MR. SHERRIFF-SCOTT:** Okay. Fair enough.

3 But in part at least, you had read portions
4 of this website?

5 **REVEREND DOYLE:** As I recall, I did. I
6 remember reading it and it was very -- I found it shocking.

7 **MR. SHERRIFF-SCOTT:** From a great many
8 vantages?

9 **REVEREND DOYLE:** Yeah, yeah. And I can't
10 remember, because it's been ages since I've seen that.

11 **MR. SHERRIFF-SCOTT:** Well, why don't I try
12 and refresh your memory with Document 122991, and this is a
13 copy of the website. So I want to just try and see if we
14 can orient ourselves as to what you were looking at, at the
15 time when you wrote these letters.

16 **REVEREND DOYLE:** M'hm.

17 **THE COMMISSIONER:** Is that an exhibit
18 already?

19 **MR. SHERRIFF-SCOTT:** No, it's not. I gave
20 notice that I would rely on it in the record, and it's
21 referred to in the Motion. That's the document we talked
22 about at lunchtime.

23 **MR. ENGELMANN:** I believe this is about a
24 90-page document. I'm not sure if Mr. Sherriff-Scott is
25 going to tell us about confidentiality concerns or not.

1 It's a very lengthy document. I haven't had a chance to
2 read it, but I'm sure -- well, I'm concerned that there
3 might be individuals and perhaps he can let us know.

4 **MR. SHERRIFF-SCOTT:** I'm not sure,
5 Commissioner, whether people in here are monikered. Most
6 of the individuals referred to -- my friend is shaking his
7 head.

8 **MR. ENGELMANN:** I know of one.

9 **MR. SHERRIFF-SCOTT:** Well, perhaps we can
10 mark it from that point of view. Most of the individuals
11 referred to in here are people against whom allegations
12 were made and they were made publicly.

13 Yes, this was up for over a year in public.
14 Now, there are people who are monikered within the context
15 of this. C-8 is one of them.

16 **THE COMMISSIONER:** M'hm.

17 **MR. SHERRIFF-SCOTT:** The others are all
18 people who were referred to from time to time on this
19 website.

20 **THE COMMISSIONER:** Okay.

21 **MR. SHERRIFF-SCOTT:** So -- sorry, go ahead.

22 **THE COMMISSIONER:** What are we going to do
23 now? We're just going to put a publication ban on it so
24 that people who are going to look at the document, if they
25 come to the -- and I'm just running this through my mind to

1 make sure we're all set here -- we'll know that if they're
2 going to use any of the names in here, they have to be
3 careful of any of the outstanding confidentiality orders
4 that we have outstanding. Okay. That takes care of that.

5 Now, the issue is whether or not we're going
6 to put it up on the -- we can put it up on the screens so
7 long as -- no, we can't. We can't put it up on the public
8 screens.

9 **MR. SHERRIFF-SCOTT:** Well, the witness can
10 have a copy of it.

11 **THE COMMISSIONER:** No, no, yes, yes.

12 **MR. SHERRIFF-SCOTT:** And he and I can debate
13 it. As long as counsel have a copy, then we can proceed
14 that way, if that works.

15 **THE COMMISSIONER:** Yes. I think that's
16 fair. Yes, go ahead. Okay.

17 So ---

18 **MR. SHERRIFF-SCOTT:** One of the counsel has
19 asked me whether or not counsel's screens can be ---

20 **THE COMMISSIONER:** Sure, we can put
21 counsels' screens on, sure. But just not the public
22 screens. Great, thank you.

23 **MR. SHERRIFF-SCOTT:** Okay. Sorry, anything
24 else?

25 **THE COMMISSIONER:** No.

1 **MR. SHERRIFF-SCOTT:** Did you want to mark
2 this in some fashion, Commissioner?

3 **THE COMMISSIONER:** Well, we've marked it as
4 M-9-A3.

5 **MR. SHERRIFF-SCOTT:** M-9-83?

6 **THE COMMISSIONER:** A3 -- M-9 -- A as in
7 Albert, 3.

8 **MR. SHERRIFF-SCOTT:** Thank you.

9 **THE COMMISSIONER:** And it will be subject to
10 a publication ban.

11 **MR. SHERRIFF-SCOTT:** Okay.

12 **THE COMMISSIONER:** And notice.

13 **--- EXHIBIT NO./PIÈCE NO. M-9-A3:**

14 (122991) Print out from Website Project
15 Truth

16 **MR. SHERRIFF-SCOTT:** Are we ready to proceed
17 then, Commissioner?

18 **THE COMMISSIONER:** I am.

19 **MR. SHERRIFF-SCOTT:** Thank you.

20 Sir, the date of your email here is around
21 mid-September 2000 and this document, the website that you
22 can see on the screen, if you look at the screen in front
23 of you on the witness stand, this is -- my information is
24 this is the website -- a copy of the website as it appeared
25 over time in its various iterations, and if you look -- and

1 the Registrar can scroll down to the bottom -- you'll see
2 that what was up on the website was sort of a work in
3 progress. It was progressively augmented and the dates on
4 which material was up and available for inspection by the
5 public are in the lower right.

6 This exhibit should be stamped with Bates
7 pages and other pages, if you scroll back up, Madam Clerk -
8 - further, thank you -- you'll see the digits in the upper
9 right. If we could turn to 00190, or we can do it by Bates
10 page?

11 Do you see the numbers stamped in the upper
12 right or we can do it by Bates page?

13 **THE COMMISSIONER:** Upper right is nice. I
14 like that.

15 **MR. SHERRIFF-SCOTT:** I beg you pardon?

16 **THE COMMISSIONER:** I prefer the upper right.

17 **MR. SHERRIFF-SCOTT:** Well that's fine. It's
18 whatever is most convenient.

19 **THE COMMISSIONER:** So what number do you
20 want to look at?

21 **MR. SHERRIFF-SCOTT:** Zero, zero, one, nine,
22 zero (00190).

23 **THE COMMISSIONER:** Okay.

24 **REVEREND DOYLE:** Naming names?

25 **MR. SHERRIFF-SCOTT:** Yes.

1 You've got the hardcopy I hope?

2 **REVEREND DOYLE:** Yeah, I got a hardcopy.

3 **MR. SHERRIFF-SCOTT:** Okay, good.

4 Well, we'll have a bit of a lag here while
5 the technology catches up with us, uncharacteristically.

6 **REVEREND DOYLE:** Okay.

7 **THE COMMISSIONER:** So, Madam Clerk, you're
8 frozen.

9 **MR. SHERRIFF-SCOTT:** I can give you the
10 Bates page if that helps more; 1144937.

11 **THE COMMISSIONER:** Yes, that's the one.

12 **MR. SHERRIFF-SCOTT:** Yes.

13 Now, part of the phenomenon of this website,
14 Father Doyle, was it took the unusual step of identifying
15 by name explicitly, alleged perpetrators, whether charged,
16 whether convicted, whether investigated or not. And so a
17 large number of people were named, regardless of whether
18 they had ever experienced any investigation or had been
19 investigated, charged or not.

20 And you will see, from the pages that
21 follow, the rationale for this is, this is an extraordinary
22 issue, extraordinary means are therefore indicated. Let's
23 bypass the usual restraint that sort of societal rules
24 impose on this kind of activity and go for it.

25 **THE COMMISSIONER:** Where do you see that?

1 **MR. SHERRIFF-SCOTT:** Well, the description
2 of what is here is -- sorry, did you have something to say?

3 **REVEREND DOYLE:** No, I just had a comment.

4 **MR. SHERRIFF-SCOTT:** Oh, okay. Thank you.

5 "Publishing names of pedophiles either
6 charged or accused is necessary and
7 important for people of Cornwall so
8 they can see the depth of the problem
9 and, at the same time, protect
10 children..." --

11 And so forth.

12 "...extraordinary situations require
13 extraordinary means."

14 **THE COMMISSIONER:** Okay.

15 **MR. SHERRIFF-SCOTT:** And then it goes on.

16 "To develop the rationale further..."

17 At the top of the next page.

18 The point is, what follows in the document
19 are not only explicit descriptions of names but actual
20 statements and alleged affidavits.

21 Now, all of this from a date stamp point of
22 view as to what was available for inspection, should you
23 peruse it as a person looking on the Internet, indicates
24 that from this page forward the material would have been
25 available had you called up the website. And I am

1 suggesting that the naming of names and the controversies
2 surrounding it was something that you were cognizant of
3 when you reviewed the website.

4 **REVEREND DOYLE:** Let me just say that when I
5 first saw this website, as I recall, I thought that it was
6 -- I was led to believe that this was an official --
7 attached to some sort of an official investigation that was
8 being conducted by the Ontario Provincial Police. And when
9 I saw these names, and I know some of these priests, I knew
10 some of them, I was under the impression at the time that
11 this was something that was public, that there had been
12 investigations ongoing. And I have to tell you that it
13 wasn't until -- I didn't look at this website much. I mean
14 I didn't get into -- I didn't follow it on a daily basis.
15 It was just too much for me quite frankly.

16 **MR. SHERRIFF-SCOTT:** No, I didn't suggest
17 you were following it on a daily basis, sir.

18 **REVEREND DOYLE:** Well, even a monthly basis.
19 Because I just stopped following it quite frankly.

20 And then I recall somewhere along the line
21 later, and I don't remember when it was, that I asked about
22 it again and was told that it had been taken off the air or
23 -- because when I found out that those emails that I had
24 written were on the website, I contacted I think it was
25 whoever the individual was that I first was in contact with

1 and asked him to take them off the website.

2 **MR. SHERRIFF-SCOTT:** Did he do that?

3 **REVEREND DOYLE:** I believe he did because I
4 checked, and I saw that they weren't there, and that was, I
5 think, the last time I ever looked at the website.

6 **MR. SHERRIFF-SCOTT:** Okay. At that moment
7 in time, surely you would have known this was not an
8 "official" website from that point of view?

9 **REVEREND DOYLE:** I believe it was around --
10 I wasn't sure, quite honestly.

11 **MR. SHERRIFF-SCOTT:** Okay.

12 **REVEREND DOYLE:** And then I did -- it was
13 confirmed when it was -- something in the back of my mind.
14 Was there a lawsuit, that somebody was sued over this? And
15 that may have been it. One way or the other, it ceased to
16 exist.

17 **MR. SHERRIFF-SCOTT:** Okay. But coming back
18 to the point, one of the things you would have read, I
19 submit to you, had you looked at the website at all from
20 this point on prior to your email, and this was available
21 prior to your email, is that the controversy or the
22 strategy of naming alleged perpetrators, whether or not it
23 had some official sponsor, was being conducted by this
24 individual.

25 These people were being named publicly as

1 perpetrators regardless of whether they had been charged,
2 regardless of whether they were guilty or innocent.

3 REVEREND DOYLE: I did not know that.

4 MR. SHERRIFF-SCOTT: You didn't know that?

5 REVEREND DOYLE: I had no idea about that,
6 no.

7 MR. SHERRIFF-SCOTT: And you didn't review
8 all of the material on the back, which referred to these
9 individuals and set out statements and allegations?

10 REVEREND DOYLE: I referred some of the -- I
11 looked at some of the information because I -- of the
12 individuals that I knew -- some of them. A lot of them I
13 don't know.

14 MR. SHERRIFF-SCOTT: Okay. And some of them
15 who you would have known are referred to in the statements
16 that follow?

17 REVEREND DOYLE: That's right.

18 MR. SHERRIFF-SCOTT: Okay. And these people
19 are the subject of allegations of abuse in those
20 statements, which you knew and understood was the case at
21 the time you looked at it?

22 REVEREND DOYLE: That's right.

23 MR. SHERRIFF-SCOTT: Okay. Fair enough.

24 And coming back to your email then, you said
25 in the second sentence:

1 "I'm both fascinated and shocked by
2 what I've read. I can't commend you
3 enough for your courage and honesty in
4 blowing the evil cover off the cabal
5 that perpetrated the mess and continued
6 to cover."

7 And when you meant "cover", you meant cover-
8 up, I take it?

9 **REVEREND DOYLE:** Yeah.

10 **MR. SHERRIFF-SCOTT:** By "cabal", you meant
11 group of people referred to therein?

12 **REVEREND DOYLE:** Whoever it was. As I said,
13 I thought this was a work in -- I mean, an official
14 investigation.

15 **MR. SHERRIFF-SCOTT:** But why would it take
16 courage and honesty then to publish it if it were an
17 official investigation. It would just go up with the
18 Imprimatur of the government.

19 **REVEREND DOYLE:** I think that would take
20 courage and honesty as well since it involved -- you know,
21 it appeared to involve so many aspects of a community.

22 **MR. SHERRIFF-SCOTT:** All right.

23 And then you go on and refer to the fact
24 that you were going to share, at a later date, information
25 pertaining to your own life in Cornwall.

1 REVEREND DOYLE: Yeah.

2 MR. SHERRIFF-SCOTT: And may I take it from
3 that you were interested in communicating that information
4 in furtherance of the objectives of the website operator?

5 REVEREND DOYLE: I wanted to share with him
6 some more information and basically to offer assistance, if
7 I could, and I can't -- to be honest with you, I don't
8 remember exactly. That's seven years ago.

9 MR. SHERRIFF-SCOTT: It is.

10 REVEREND DOYLE: And there has been a lot of
11 water over my dam in those past seven years.

12 MR. SHERRIFF-SCOTT: I'm sure over
13 everybody's dam.

14 Now, in the last paragraph, you say:

15 "I am still a priest although I'm
16 probably on the hit list of every
17 bishop in the U.S."

18 May I take it that that expression implied a
19 significant level of disagreement or animosity between you
20 and bishops in the United States, real or perceived?

21 REVEREND DOYLE: I don't believe there was
22 so much animosity as it was the fact that it was a
23 statement that I made because I had been critical, openly
24 critical, of the way the sexual abuse issue had been
25 handled.

1 **MR. SHERRIFF-SCOTT:** You used the expression
2 "hit list", which would imply a little bit more than that
3 would.

4 **REVEREND DOYLE:** It was slang expression. I
5 don't think in reality I was on an actual hit list.

6 **MR. SHERRIFF-SCOTT:** No, I didn't mean to
7 convey that.

8 **REVEREND DOYLE:** No. Okay.

9 **MR. SHERRIFF-SCOTT:** What I meant is your
10 choice of nomenclature was extreme and thus the reader
11 might be led to believe that there is some significant
12 hostility between you and the organized Church in the
13 United States.

14 **REVEREND DOYLE:** That's possible.

15 And let me just say that even though -- I
16 will admit that this is inflammatory language, but I'd like
17 to perhaps mention that I'm not alone. The former Chairman
18 of the United States Catholic Bishops National Review
19 Board, Governor Frank Keating, publicly compared the
20 bishops to the *La Causa Nostra*.

21 **MR. SHERRIFF-SCOTT:** Okay. But right now,
22 we are talking about you.

23 **REVEREND DOYLE:** Okay. But I'm just saying
24 that this is not unique.

25 **MR. SHERRIFF-SCOTT:** Fair enough.

1 **REVEREND DOYLE:** And I'm not -- and I also
2 will say that I do openly and honestly regret the problems
3 that this has caused.

4 **MR. SHERRIFF-SCOTT:** Well, what do you
5 regret, and what problems did it cause?

6 **REVEREND DOYLE:** Well, that it became
7 public.

8 **MR. SHERRIFF-SCOTT:** Do you regret the fact
9 that a person of your stature was used to effectively
10 endorse the operation of this website? Is that what you
11 regretted?

12 **REVEREND DOYLE:** I didn't intend to be used
13 and if that's what happened, I guess I would say I possibly
14 regret that, but I don't know what the website did after
15 this.

16 **MR. SHERRIFF-SCOTT:** Okay. If you can flip
17 over to page 111.

18 **REVEREND DOYLE:** M'hm.

19 **MR. SHERRIFF-SCOTT:** I just want to refer to
20 a few other things.

21 At the bottom of the page, on the 1st of
22 October now, a few weeks later, you write -- you wrote a
23 few of these as you had time in your schedule, but in the
24 October 1st letter, you referred specifically to an incident
25 pertaining to your time in Cornwall when you were a child

1 and attending St. Columban's.

2 You had referred at the top of the page to
3 Ken Martin and the reason you were referring to Ken Martin
4 is because you were determining whether or not you could
5 find pertinent information relating to him because he had
6 been accused. Fair?

7 **REVEREND DOYLE:** I didn't ask for any
8 information at all.

9 **MR. SHERRIFF-SCOTT:** No, you were ---

10 **REVEREND DOYLE:** I was interested.

11 **MR. SHERRIFF-SCOTT:** You were interested in
12 supplying it if you could find it?

13 **REVEREND DOYLE:** No, no, no. No, I was not
14 interested in supplying anything. I was just surprised
15 because I knew him. Of all of these men he's the one I
16 knew the best.

17 **MR. SHERRIFF-SCOTT:** All right.

18 Down on the bottom then you say you knew
19 Bernie Cameron and Ken Martin.

20 **REVEREND DOYLE:** M'hm.

21 **MR. SHERRIFF-SCOTT:** And then you refer to
22 an incident in a car ride. And surely you would agree with
23 me that the purpose of supplying that information was to
24 assist this website operator in doing whatever he was
25 doing; whatever you understood that to be at the time? You

1 weren't supplying this information gratuitously?

2 REVEREND DOYLE: I was just supplying the
3 information. I don't remember exactly what my method --
4 what my purpose was.

5 MR. SHERRIFF-SCOTT: Well, but the innuendo
6 ---

7 REVEREND DOYLE: The innuendo was not
8 correct. I was not sexually abused, and now as I look back
9 on it in reflecting, I think what he was doing was the same
10 that a lot of priests would do out of that culture. They
11 were very concerned about sexual morality and about giving
12 direction to young boys or young girls, and it came from a
13 different era.

14 MR. SHERRIFF-SCOTT: But, sir, in fairness
15 now, when you look at this and what you wrote at the time,
16 and given the context of this website and the content
17 insofar as you were aware of it, what you were doing here
18 is relating an incident which you considered to be
19 approximating or up to or near an assault surely? That's
20 what you were trying to convey to this individual?

21 REVEREND DOYLE: No, I was not.

22 MR. SHERRIFF-SCOTT: Why did you feel ---

23 REVEREND DOYLE: It was not an assault. If
24 it had been an assault ---

25 MR. SHERRIFF-SCOTT: No, I'm not saying it

1 was an assault. What I'm saying is you were supplying this
2 information as a method of bolstering credibility of
3 allegations against this individual.

4 **REVEREND DOYLE:** No, I didn't know there
5 were any allegations against him.

6 **MR. SHERRIFF-SCOTT:** Well, it's referred to
7 on the website that you reviewed. Why would you otherwise
8 have mentioned Mr. Cameron -- or Father Cameron
9 specifically?

10 **REVEREND DOYLE:** I didn't know what the
11 allegations were.

12 **MR. SHERRIFF-SCOTT:** Nevertheless, you knew
13 there were allegations. He specifically mentioned and you
14 indicated that you refer two people that you knew.

15 **REVEREND DOYLE:** That's true. I don't
16 recall in detail what was going through my mind when I
17 wrote this.

18 **MR. SHERRIFF-SCOTT:** Well, I'm concerned
19 that what you were endeavouring to do is to assist the
20 website operator to develop the credibility of the
21 positions he was taking in public against people who had
22 not been charged. Isn't that what you were doing here?

23 **REVEREND DOYLE:** If it was it was a passive
24 intention. It was not a direct intention on my part that I
25 recall, and I don't recall exactly.

1 **MR. SHERRIFF-SCOTT:** So this was a mistake,
2 from your point of view, doing this?

3 **REVEREND DOYLE:** I would say now yes.

4 **MR. SHERRIFF-SCOTT:** All right.

5 If we can flip over then to the next page,
6 112, you refer in the second paragraph as to "your present
7 situation". And I take it that meant you're referring to
8 the website operator and the situation in Cornwall, "Denial
9 is a massive problem with sex abuse", and denial had been
10 your experience in the United States so you were referring
11 to your experience there; correct?

12 **REVEREND DOYLE:** Yes.

13 **MR. SHERRIFF-SCOTT:** Okay.

14 "and the only way to get the attention
15 of the Catholic Church leadership is by
16 taking their money, lawsuits, giving
17 them bad publicity and threatening
18 their power. I have learned over 16
19 years of direct experience, which
20 started when I worked with the Vatican
21 Embassy that the hierarchy is about the
22 most corrupt political entity on the
23 globe."

24 Now, that's pretty categorical in its
25 indictment, isn't it?

1 **REVEREND DOYLE:** Fairly strong.

2 **MR. SHERRIFF-SCOTT:** Well, I mean, I can
3 think of some pretty corrupt regimes and saying that
4 they're the most corrupt would be pretty aggressive,
5 wouldn't it?

6 **REVEREND DOYLE:** That's right.

7 **MR. SHERRIFF-SCOTT:** Okay. You then refer
8 no doubt when you use the expression "political entity on
9 the globe" the next -- the fourth word and next out of your
10 pen is "Nazi", which is an extreme descriptor.

11 **REVEREND DOYLE:** I wasn't comparing the
12 bishops to Nazis. I was simply saying what you -- you knew
13 what you were dealing with.

14 **MR. SHERRIFF-SCOTT:** In other words, they
15 were so inherently evil on their face, there is no question
16 about their evil intention?

17 **REVEREND DOYLE:** That's right. They weren't
18 cloaked in any kind of a -- they weren't camouflaged let's
19 say.

20 **MR. SHERRIFF-SCOTT:** I see. So their evil
21 wasn't -- Mack the knife; that you saw the shark's teeth
22 but with the Catholic Church the evil is covered in a
23 veneer of legitimacy.

24 **REVEREND DOYLE:** That's correct.

25 **MR. SHERRIFF-SCOTT:** And the evil is as bad

1 as Nazis. But you just knew the Nazis ---

2 REVEREND DOYLE: No, no, no, no, no. You're
3 putting words in my mouth.

4 MR. SHERRIFF-SCOTT: No, I'm trying to
5 explore what this meant, sir.

6 REVEREND DOYLE: It meant very simply that
7 with certain groups, and I'm using the Catholic bishops
8 here, the evil or the dishonesty was often times cloaked in
9 the veneer of goodness or legitimacy, but at least with the
10 Nazis -- or I could have used any other analogy with the
11 Mafia, with something of that nature -- what you saw you
12 knew what you were dealing with. That's all.

13 MR. SHERRIFF-SCOTT: All right.

14 And then you go on and say in the last
15 sentence:

16 "Most lawyers in the U.S. say that if a
17 bishop's lips are moving they presume
18 he is lying."

19 You're writing that no doubt with the point
20 of conveying the degree to which at least you in part have
21 these feelings. Isn't that fair?

22 I mean, this is fairly dramatic language.

23 REVEREND DOYLE: It is. I'm not denying
24 it's not dramatic language, and you know, you don't have to
25 press the issue. It is dramatic and it is ---

1 **MR. SHERRIFF-SCOTT:** You know, I'm not
2 criticizing you for your views.

3 **REVEREND DOYLE:** I'm trying to think of
4 another word. But it is dramatic. It is direct. It's
5 inflammatory. That's the word I'm looking ---

6 **MR. SHERRIFF-SCOTT:** Hyperbolic perhaps?

7 **REVEREND DOYLE:** Possibly.

8 **MR. SHERRIFF-SCOTT:** And you may have these
9 views, sir, and that's not my criticism. I just want to
10 explore what you are articulating as the views that you
11 have.

12 **REVEREND DOYLE:** This is also seven years
13 ago.

14 **MR. SHERRIFF-SCOTT:** Fair enough.
15 The next paragraph then you use the
16 expression "brainwashing".

17 **REVEREND DOYLE:** Yes.

18 **MR. SHERRIFF-SCOTT:** And I presume that is
19 in reference to what you consider to be the activities of
20 Church authorities?

21 **REVEREND DOYLE:** Let me look at the ---

22 **MR. SHERRIFF-SCOTT:** It's in the first
23 sentence.

24 **REVEREND DOYLE:** Yes, yes, yes, yes, yes.
25 Okay.

1 **MR. SHERRIFF-SCOTT:** Okay. Do we agree on
2 that?

3 **REVEREND DOYLE:** Yes.

4 **MR. SHERRIFF-SCOTT:** All right.
5 And down below in the next paragraph which
6 follows:

7 "Depending on where you were at, what
8 you probably need is some heavy duty
9 lawsuits and really tough lawyers
10 representing victims. The more
11 ruthless the better because the
12 institutional Church is the most
13 deceptive entity that any lawyer will
14 encounter."

15 So up above you described them as "the most
16 corrupt political entity on earth" and now they're "the
17 most deceptive entity".

18 **MR. TALACH:** Sorry, Mr. Commissioner.

19 I think it reads "...is about the most
20 deceptive entity" and I think that qualification is
21 important.

22 **MR. SHERRIFF-SCOTT:** Well, we'll rely on
23 reply. No doubt that will neutralize this.

24 **THE COMMISSIONER:** Well, it reads the better
25 because:

1 "... the institutional Church is about
2 the most deceptive entity."

3 **MR. SHERRIFF-SCOTT:** Okay. Well, "about the
4 most". So it's up there. From your point of view you're
5 expressing a view to this person, whether you knew it was
6 going to be public or not, it's a reflection of the view
7 you had.

8 **REVEREND DOYLE:** At that time.

9 **MR. SHERRIFF-SCOTT:** Okay.

10 **REVEREND DOYLE:** At the moment I wrote it.

11 **MR. SHERRIFF-SCOTT:** All right.

12 And then you refer to the need for
13 publicity. And in other words, your website's not enough,
14 you can get -- you can find instrument of further
15 dissemination of its content either in the U.S. or through
16 other publication, i.e. National Catholic Reporter, et
17 cetera. Is that fair?

18 **REVEREND DOYLE:** I'm just going to say that
19 this is what I said, no more no less. I'll agree to that.

20 **MR. SHERRIFF-SCOTT:** Okay. Sir, the website
21 that you would have looked at, at least insofar as the
22 people you knew, pursued a strategy of naming individuals
23 who had never been charged and supplying evidence against
24 them. And this was an extraordinary development, and
25 whether you understood that or not.

1 May I take it, sir, that when you wrote in
2 and expressed your support, your courage and honesty in
3 blowing the evil cover off the cabal you said, which surely
4 is anticipated, we could agree is supportive in terms of
5 language. Yes?

6 **REVEREND DOYLE:** Yes.

7 **MR. SHERRIFF-SCOTT:** Sorry, the record
8 requires a response that's audible.

9 **REVEREND DOYLE:** Okay. Yes. Sorry.

10 **MR. SHERRIFF-SCOTT:** Surely you would agree
11 with me that at least in retrospect this website was
12 pursuing a sort of strategy that the ends justify the
13 means? And whether or not some people agree with that,
14 you're a person schooled in the culture of process as a
15 lawyer canonist and you understand and know that process is
16 important, assuming it's the right process, but process is
17 important from the point of view of fundamental disposition
18 which is fair and equitable all around.

19 **REVEREND DOYLE:** M'hm.

20 **MR. SHERRIFF-SCOTT:** Yes?

21 **REVEREND DOYLE:** Yes.

22 **MR. SHERRIFF-SCOTT:** And wouldn't you agree
23 with me, sir, that by writing in and supporting this ends
24 justify the means phenomenon that you were buying in to
25 that approach?

1 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. PETER WARDLE:

2 MR. WARDLE: Just a moment. My friend keeps
3 putting these propositions to the witness. He's repeatedly
4 said -- the witness has said repeatedly that he didn't
5 understand that this was a private website and he didn't
6 appreciate that this was the strategy of the website and
7 that he didn't read this material. And I'd appreciate it
8 if my friend would put these propositions to him based on
9 the answers that he's given and restrain himself in that
10 fashion.

11 I'm looking for him.

12 THE COMMISSIONER: He's right behind you.

13 MR. WARDLE: There he is. He's right behind
14 me.

15 But, you know, we've been here now for 20
16 minutes. I understood the witness to say a long time ago,
17 quite a long time ago, about 20 minutes ago, that he didn't
18 read all of this material. And, by the way, we don't have
19 any evidence independently of what Mr. Sherriff-Scott is
20 telling us about this particular piece of information. And
21 the witness has given his answers over and over that he
22 didn't appreciate that this was private; he didn't
23 appreciate that his comments would be disseminated; and he
24 didn't appreciate that the *modus operandi* of the website
25 operator was to spill out all these names.

1 So I think Mr. Sherriff-Scott needs to be a
2 little fairer with the witness in putting some of these
3 propositions to him.

4 **THE COMMISSIONER:** Mr. Sherriff-Scott.

5 **---CROSS-EXAMINATION ON QUALIFICATIONS BY/CONTRE-**
6 **INTERROGATOIRE SUR QUALIFICATIONS PAR MR. DAVID SHERRIFF-**
7 **SCOTT (con't/suite):**

8 **MR. SHERRIFF-SCOTT:** Thank you.

9 From my point of view, I think Reverend
10 Doyle has admitted at some juncture following his first
11 email he became aware that -- well, first of all he
12 admitted to me that he had read material at least insofar
13 as individuals that he knew.

14 **THE COMMISSIONER:** M'hm.

15 **MR. SHERRIFF-SCOTT:** That he knew there were
16 allegations against them whether charged or not, and that
17 at some point following his first email he was aware of the
18 fact this was not on official website.

19 **THE COMMISSIONER:** That it what? Pardon me?
20 That it was??

21 **MR. SHERRIFF-SCOTT:** He was aware that it
22 was not an official website following his first email at
23 some point later. And what I'm asking ---

24 **THE COMMISSIONER:** No, no, no.

25 **REVEREND DOYLE:** No, that's not what I said

1 at all.

2 **MR. SHERRIFF-SCOTT:** Well, that's what I
3 heard you to say.

4 **REVEREND DOYLE:** Well, you didn't hear me
5 right then.

6 What I said was at some point after these
7 emails were sent, then I discovered that this was not an
8 official website. I wasn't sure what the website was at
9 the beginning, if it was an official website with a section
10 that had victims attached to it or what it was.

11 But it was after that when I found out that
12 they had been put on the website that I asked to have them
13 taken off. And that it was subsequent to that, as I
14 recall, as I said, this was seven years ago and this is not
15 something that I studied deeply, this website, or the
16 information contained therein.

17 It was subsequent to that that I learned
18 that it was not official and that it was apparently removed
19 from the Internet for some reason by summer by someone.

20 **MR. SHERRIFF-SCOTT:** So your evidence is you
21 were not sure whether it was official or not when you wrote
22 these emails. That's what you just told me?

23 **REVEREND DOYLE:** No. No, that's not what I
24 said. I thought it was official when I wrote -- I thought
25 it was an official website when I wrote the emails, that it

1 had something to do with some form of an official
2 investigation going on.

3 **MR. SHERRIFF-SCOTT:** And did you take any
4 precautions to ensure yourself that that's what it was
5 before you wrote?

6 **REVEREND DOYLE:** Such as what?

7 **MR. SHERRIFF-SCOTT:** I have no idea. Did
8 you make any inquiries of anybody to find out whether it
9 was an official website?

10 **REVEREND DOYLE:** I don't recall.

11 **MR. SHERRIFF-SCOTT:** Did you look at it to
12 see whether it so described itself?

13 **REVEREND DOYLE:** I don't recall.

14 **MR. SHERRIFF-SCOTT:** No. Did you take any
15 action whatsoever to make that inquiry of anybody?

16 **REVEREND DOYLE:** I don't recall.

17 **MR. SHERRIFF-SCOTT:** Okay. So you're
18 telling me you made an assumption about it which later
19 changed?

20 **REVEREND DOYLE:** That's correct.

21 **MR. SHERRIFF-SCOTT:** All right.

22 If we could turn to page 107?

23 **REVEREND DOYLE:** Are we done with this?

24 **MR. SHERRIFF-SCOTT:** Yes, we are.

25 Now, this is what purports to be a

1 description of -- what purports to be the textual portion
2 of an article but found its way into some publication, The
3 Catholic New Times. About a year after or two years after
4 your first emails that we just canvassed.

5 REVEREND DOYLE: M'hm.

6 MR. SHERRIFF-SCOTT: And if you can just
7 scan the second full paragraph, "I'm not Canadian" and
8 following?

9 REVEREND DOYLE: I see it.

10 MR. SHERRIFF-SCOTT: Have you read that?

11 REVEREND DOYLE: Yes.

12 MR. SHERRIFF-SCOTT: You say in the second
13 sentence that you're:

14 "... all too familiar with the Cornwall
15 scandal. I'm not just referring to the
16 priests who allegedly abused their
17 victims. They are small potatoes,
18 though rotten ones. And that is
19 allegedly ..."

20 In other words, you didn't know at that time
21 whether they were guilty or not, correct?

22 REVEREND DOYLE: Correct.

23 MR. SHERRIFF-SCOTT: Although you were
24 referring to them as rotten ones.

25 REVEREND DOYLE: Yes, I said it. It's

1 there.

2 **MR. SHERRIFF-SCOTT:** All right.

3 "... compared to everyone who took part
4 in the conspiracy to cover up and to
5 abort justice from the clerics to the
6 local judiciary to the local press."

7 So this is an indictment not just of the
8 local diocese but of the judiciary and the press as
9 instruments of cover up.

10 Where were you getting that information if
11 it wasn't from the website?

12 **REVEREND DOYLE:** I don't recall. I really
13 don't.

14 **MR. SHERRIFF-SCOTT:** And then you refer to
15 writing an angry email on the subject, which no doubt
16 refers to the material we just canvassed; is that fair?

17 **REVEREND DOYLE:** Yes, that's fair.

18 **MR. SHERRIFF-SCOTT:** And a communiqué was
19 made public and then you refer to the local bishop as
20 asking when did he lose his faith; in other words, you
21 couldn't have faith if you criticize the Church, is the
22 innuendo?

23 **REVEREND DOYLE:** That's right.

24 **MR. SHERRIFF-SCOTT:** All right.

25 "My response to that inane remark is

1 that I never lost my faith. I woke up
2 and realized that I had to shift it."

3 And then the last sentence is:

4 "Don't act like criminals and expect
5 people to believe you represent the
6 perfect God of love and justice.

7 Hypocrisy is hypocrisy ..."

8 Et cetera.

9 These are an expression of your views at the
10 time?

11 **REVEREND DOYLE:** Yes.

12 **MR. SHERRIFF-SCOTT:** Okay.

13 Did you know by this time that the website
14 was unofficial?

15 **REVEREND DOYLE:** I don't recall exactly what
16 I knew about the website. I think at the time I may have
17 known that it was no longer in existence, but I don't
18 recall.

19 **MR. SHERRIFF-SCOTT:** Thank you.

20 Now, I'm going to refer to a document
21 commencing at page 92 and following. And this is an
22 article that looks like it was published by you at a
23 convention. Am I right?

24 **REVEREND DOYLE:** Not an article. It was a
25 speech I gave.

1 **MR. SHERRIFF-SCOTT:** Speech you gave that
2 was recorded texturally and re-published in?

3 **REVEREND DOYLE:** I don't know where this
4 came from but it was ---

5 **MR. SHERRIFF-SCOTT:** It looks like it was a
6 website.

7 **REVEREND DOYLE:** It could have been.

8 **MR. SHERRIFF-SCOTT:** The Voice of the
9 Faithful. Do you know what publication that is?

10 **REVEREND DOYLE:** It's a website.

11 **MR. SHERRIFF-SCOTT:** Okay.

12 And just on the second page of that speech,
13 the reference down at the bottom of the page -- and I take
14 it this speech reflected your honestly-held views at the
15 time you gave it?

16 **REVEREND DOYLE:** Of course it did.

17 **MR. SHERRIFF-SCOTT:** I don't mean to be
18 obtuse, sir. I'm just trying to confirm it for the record.

19 And you refer at the third-last paragraph:

20 "The despicable saga of clergy
21 religious of sexual abuses, not the
22 essence of the problem but a symptom
23 much deeper and more persuasive,
24 destructive disease, fatal in nature,
25 the fallacy of clericalism."

1 And the expression you use there is meant to
2 imply -- unjustified in your view -- lofty position of a
3 priest which had unfortunate effects on the community?

4 **REVEREND DOYLE:** Clericalism that's -- could
5 be a symptom of it but it's broader than that. There are
6 more symptoms than that one.

7 **MR. SHERRIFF-SCOTT:** All right.

8 And then you refer as a "delusion" in the
9 next paragraph:

10 "They are somehow above the laity,
11 deserving of unquestioned privilege
12 ..."

13 This was what I was referring to.

14 **REVEREND DOYLE:** Yes.

15 **MR. SHERRIFF-SCOTT:** And then you refer to
16 the deadliest symptom, however, in the last line is:

17 "The unbridled addiction to power."

18 **REVEREND DOYLE:** That's correct.

19 **MR. SHERRIFF-SCOTT:** And this is your
20 descriptor of the hierarchy of the Church?

21 **REVEREND DOYLE:** Anyone with an addiction to
22 power.

23 **MR. SHERRIFF-SCOTT:** But in particular in
24 this environment of Church officials?

25 **REVEREND DOYLE:** No, it wasn't only

1 reflecting Church officials. It would be anybody addicted
2 to power.

3 **MR. SHERRIFF-SCOTT:** But what you're
4 referring to in the first sentence, if I may just take
5 issue with your statement you just made is:

6 "The delusion that clergy are above the
7 laity."

8 **REVEREND DOYLE:** M'hm.

9 **MR. SHERRIFF-SCOTT:** And then you say:

10 "The deadliest symptom ..."

11 You start to engage the question of this
12 issue in the context of descriptions of clergy:

13 "... is unbridled addiction of power."

14 **REVEREND DOYLE:** In that context, yes.

15 **MR. SHERRIFF-SCOTT:** Okay. So in this
16 context you're referring to ---

17 **REVEREND DOYLE:** I misunderstood you. I'm
18 sorry.

19 **MR. SHERRIFF-SCOTT:** No, that's fair. I
20 just want to clarify it.

21 **REVEREND DOYLE:** Sure.

22 **MR. SHERRIFF-SCOTT:** So you are referring to
23 either Church hierarchy or individual clerics?

24 **REVEREND DOYLE:** Anyone in the position of
25 power who becomes addicted to it.

1 **MR. SHERRIFF-SCOTT:** But in this ---

2 **REVEREND DOYLE:** Primarily clergy and
3 hierarchy.

4 **MR. SHERRIFF-SCOTT:** Okay, in this context
5 in that's what you're referring to?

6 **REVEREND DOYLE:** In that chapter, yes.

7 **MR. SHERRIFF-SCOTT:** Over the next page,
8 your position in the middle of the page which is the third
9 full textual paragraph about:

10 "... deeply ingrained abuse of power by
11 the hierarchical leadership of the
12 Church sustained and encouraged by myth
13 of what is good for a tiny minority."

14 This again is a reflection of your analysis
15 of the abuse of power by the Church?

16 **REVEREND DOYLE:** And that's not only, by the
17 way, my analysis of an abuse of power but the same analysis
18 that has been recorded in other official reports by
19 theologians, by others who have observed not just this but
20 other issues related.

21 **MR. SHERRIFF-SCOTT:** That may be, but I'm
22 focused right now on what your views are.

23 **REVEREND DOYLE:** Okay.

24 **MR. SHERRIFF-SCOTT:** Okay.

25 In the next paragraph you're referring again

1 to the:

2 "... death throes of the medieval
3 monarchical model of the Church, and
4 it's an illusionist church based on a
5 belief a small, select minority of the
6 educated privileged powerful was called
7 by God to manage the temporal spiritual
8 lives of the faceless masses ..."

9 **REVEREND DOYLE:** That's correct.

10 **MR. SHERRIFF-SCOTT:**

11 "... on the presumption that their
12 unlettered and squalid state meant that
13 they were ignorant and incapable of
14 discerning their spiritual destiny."

15 This is your presently-held view at this
16 time in 2002?

17 **REVEREND DOYLE:** Yes.

18 **MR. SHERRIFF-SCOTT:** Okay. Flipping the
19 page again, you are reacting here in the middle of the page
20 to your perceptions of what you think is the response of
21 the institutional church and your descriptions of it in the
22 context of this abuse issue, and you describe what you
23 consider to be the:

24 "... strength, credibility and effect
25 is of true church leadership is not to

1 be fortified by a multimillion dollar
2 public relations firms or high-priced
3 lawyers as a backup of even a front
4 line, a pathological secrecy fear or
5 myth..."

6 So this is what you're contending the Church
7 is engaged in at the time?

8 **REVEREND DOYLE:** Yes.

9 **MR. SHERRIFF-SCOTT:** Okay. And again, at
10 page 96, in the first paragraph toward the bottom of the
11 paragraph, you refer to:

12 "And may I say that this implies the
13 Church authorities are in the midst of
14 being fettered by terrible chains and
15 addiction to power and control."

16 **REVEREND DOYLE:** Yes.

17 **MR. SHERRIFF-SCOTT:** Okay.

18 **REVEREND DOYLE:** I presume you're asking me
19 if I actually said that?

20 **MR. SHERRIFF-SCOTT:** No, I'm just -- that
21 was your view at the time. You're referring to this --
22 this is a reference to what you consider to be
23 characteristics of the Church hierarchy.

24 **REVEREND DOYLE:** At the time.

25 **MR. SHERRIFF-SCOTT:** Yes. Okay. If we can

1 just move on.

2 Father, at page 88 of the record there's an
3 article in the Boston Globe. The textual portion I want to
4 just discuss with you briefly is at page 89, the second
5 page in. You would have been subject to interview all the
6 time following your -- or at least with increasing
7 frequency over the years following the development of your
8 manual. Nothing unusual that you would be quoted in the
9 newspaper?

10 **REVEREND DOYLE:** Nothing.

11 **MR. SHERRIFF-SCOTT:** Okay. The next page,
12 it's referring to -- this is with reference to your leaving
13 the Vatican Embassy, which is the Nuncio in the United
14 States?

15 **REVEREND DOYLE:** Yes.

16 **MR. SHERRIFF-SCOTT:** Okay. And you're
17 quoted here at the fifth paragraph from the bottom:

18 "His position at the Vatican Embassy
19 was affected although..."

20 And then it's quoting:

21 "I was never quite sure why I was
22 hounded out so fast."

23 Was it your contention to the media or at
24 least you meant to imply that you were dismissed from the
25 Nuncio by reason of the expression of your public views?

1 **REVEREND DOYLE:** I wasn't -- they were
2 trying to get me to say that, and I didn't want to say that
3 because I couldn't at the time. I didn't know.

4 **MR. SHERRIFF-SCOTT:** And is that your view
5 now?

6 **REVEREND DOYLE:** I still don't know.

7 **MR. SHERRIFF-SCOTT:** Okay. You used the
8 expression you weren't sure why you were hounded out so
9 fast. Did that not mean to imply that there was some
10 connection to the expression of your views that resulted in
11 you leaving?

12 **REVEREND DOYLE:** I said I don't know why it
13 happened that quickly. I was never told.

14 **MR. SHERRIFF-SCOTT:** That's fair enough.
15 I'm talking about your perceptions and the language you
16 used here. The reference is "hounded out", which is an
17 unusual descriptor for just leaving.

18 **REVEREND DOYLE:** They're the words I used.

19 **MR. SHERRIFF-SCOTT:** Okay. And if we can
20 refer again to the next reference, which is at page 72.
21 Now, this is in 2003, a little more recently.

22 **THE COMMISSIONER:** Sorry, what page?

23 **MR. SHERRIFF-SCOTT:** Seventy-two (72),
24 Commissioner.

25 **THE COMMISSIONER:** Okay.

1 **MR. SHERRIFF-SCOTT:** And here I'm focusing
2 on your views, and I appreciate that you may contend that
3 others share your views, and that may be. And again, sir -
4 - Father, I'm not criticizing you for holding your views.
5 I just want to identify what they are. And I'm looking at
6 the bottom of the last paragraph.

7 **REVEREND DOYLE:** This is on page 72?

8 **MR. SHERRIFF-SCOTT:** Yes, sir.

9 **REVEREND DOYLE:** Okay.

10 **MR. SHERRIFF-SCOTT:** And this is in
11 reference to the document that was issued in 1962, and
12 you're being interviewed, no doubt, in the context of the
13 description of that because of the implications people
14 attach to it from the point of view of secrecy.

15 And where you're quoted, and just to see if
16 we're accurately quoting your views:

17 "The media is over blowing what is
18 already known. Since January '02 we
19 have witnessed wave after wave of
20 deception, stonewalling, outright
21 lying, intimidation and complex games
22 to manipulate the truth and obstruct
23 justice."

24 This is your contention in connection with
25 the activities of the Church?

1 **REVEREND DOYLE:** That statement was based on
2 hard evidence from actual legal cases in the United States,
3 Grand Jury proceedings that had been published by this time
4 and journalistic investigations.

5 **MR. SHERRIFF-SCOTT:** I don't mean to
6 distinguish between your views, sir, as founded or
7 unfounded. I just want to find out what they are, and this
8 was an expression of your view about what the Church ---

9 **REVEREND DOYLE:** No, but what I was doing
10 there was basically making a statement of fact. It wasn't
11 a view. It was just a statement of fact.

12 **MR. SHERRIFF-SCOTT:** Well, it's the
13 expression of an opinion founded on facts that you'd
14 referred to. Is that fair?

15 **REVEREND DOYLE:** You can call it that, sure.

16 **MR. SHERRIFF-SCOTT:** Okay. And it's the
17 opinion you developed based on facts that you say you knew?

18 **REVEREND DOYLE:** Yeah.

19 **MR. SHERRIFF-SCOTT:** Yeah. Okay.

20 **REVEREND DOYLE:** Now, the context of this
21 was that this document was somehow a smoking gun in
22 evidence of a conspiracy, and I was trying to argue against
23 that contention.

24 **MR. SHERRIFF-SCOTT:** Against that thesis?

25 **REVEREND DOYLE:** Yes.

1 **MR. SHERRIFF-SCOTT:** Okay. It was bad
2 enough, as far as you were concerned?

3 **REVEREND DOYLE:** What was bad enough?

4 **MR. SHERRIFF-SCOTT:** Well, the situation.
5 From the point of view of what you expressed here, it
6 didn't matter what the document said. You expressed the
7 view about stonewalling, lying, manipulation, et cetera.

8 **REVEREND DOYLE:** Well, you're taking what I
9 said out of context. I just made that statement because I
10 -- I don't remember even the interview, but I will say that
11 I was trying to make it clear that it was not my opinion
12 that this Vatican document was in fact evidence of an
13 intentional conspiracy or a smoking gun.

14 **MR. SHERRIFF-SCOTT:** Not a smoking gun from
15 your point of view?

16 **REVEREND DOYLE:** That's right.

17 **MR. SHERRIFF-SCOTT:** Okay. Page 69 is
18 another Boston Globe article, and I take it at this time
19 the Globe is interviewing you first because you're a person
20 that's involved in the area and, secondly, because this is
21 around the time of disclosures in Boston that were very
22 electrifying from the point of view of detail and numbers
23 of complaints and so forth?

24 **REVEREND DOYLE:** They had what they call the
25 spotlight team that was conducting an ongoing research

1 endeavour in this and they were calling a number of people,
2 and I was one of them.

3 **MR. SHERRIFF-SCOTT:** And you would be a
4 person they would identify as a source of information on a
5 particular story, so you would be on their list to talk to?

6 **REVEREND DOYLE:** I believe that's true.

7 **MR. SHERRIFF-SCOTT:** Okay. I'm just now
8 referring to the fourth and fifth from the bottom. It's a
9 news conference here where you're referred to usually
10 saying that your views get you in trouble and compared the
11 current crisis to the Inquisition when thousands were
12 persecuted.

13 Now, if I can -- you're much more a master
14 of history than I am or no doubt ever will be on the
15 Inquisition or times relating to it, but correct me if I'm
16 wrong; the Inquisition was a time when the Church was
17 reacting to perceived threats against it from at least a
18 doctrinal point of view and the watering down of its
19 authority?

20 **REVEREND DOYLE:** That's a watered down way
21 of describing the Inquisition.

22 **MR. SHERRIFF-SCOTT:** Well, I'm not finished
23 describing it, but that's at least one point.

24 **REVEREND DOYLE:** That's one way, yes.

25 **MR. SHERRIFF-SCOTT:** Okay. And I have no

1 doubt that it was filled with egregious activities,
2 including persecution, outright executions and so forth.

3 **REVEREND DOYLE:** Torture.

4 **MR. SHERRIFF-SCOTT:** Torture.

5 And these activities were being carried out
6 in collaboration with civil authorities like the Spanish
7 who no doubt used that in furtherance of their own ends;
8 i.e. to deal with their own political enemies?

9 **REVEREND DOYLE:** Probably.

10 **MR. SHERRIFF-SCOTT:** Probably.

11 So when you use that metaphor, if I can use
12 that expression, that's a pretty severe expression of your
13 view and perceptions of the Catholic Church and its
14 hierarchy? In other words, you can equate them to the
15 activities ---

16 **REVEREND DOYLE:** I've used that analogy
17 before and I think I'd like to clarify when I've used it.
18 Of course, when you give an interview to the newspaper, you
19 have no control over what they're going to put in and what
20 they're not going to put in, but the ---

21 **MR. SHERRIFF-SCOTT:** I've had that
22 experience.

23 **REVEREND DOYLE:** The issue, as I see it
24 today, is that the Inquisition brought tremendous harm and
25 was a massive black mark on the institutional Catholic

1 Church, similar to the manner with which sexual abuse of
2 children had been handled. The sexual abuse issue did not
3 bring about torture as such or murder or execution, but it
4 did result in some -- you know, it was a black mark. It
5 was not a ---

6 **MR. SHERRIFF-SCOTT:** And I didn't mean to
7 imply that that was so. What I meant to imply is from the
8 point of view of what you considered sort of to be evil and
9 moral depravity, you're leveling that opinion at the
10 Catholic Church?

11 **REVEREND DOYLE:** I think the Inquisition was
12 moral depravity, and I think that sexual abuse of children
13 is too.

14 **MR. SHERRIFF-SCOTT:** I have no doubt about
15 that.

16 What I'm concerned about identifying is your
17 views about the hierarchy of the Church, which is what, I
18 take it, you're describing in terms of its reaction?

19 **REVEREND DOYLE:** At that time, the reaction
20 was -- yes.

21 **MR. SHERRIFF-SCOTT:** Okay. And if we go to
22 page 66, another article where you use the same metaphor
23 and analogy towards -- this is another Boston Globe
24 publication in July 2002, and down at the third-last
25 paragraph you're using again the metaphor:

1 "...and perhaps equaled by the
2 bloodshed of the Inquisition, but which
3 certainly makes the indulgence scam of
4 the reformation pale by comparison."

5 And then you refer to the:

6 "... death throes of medieval
7 monarchical model based on a belief a
8 small, ..."

9 Et cetera. You have repeated that
10 statement.

11 So the severity of the Inquisition and its
12 evil is what you're using as a metaphor to describe your
13 views of the Church surely?

14 **REVEREND DOYLE:** No, I'm saying that the
15 Inquisition was a horrible event and that the horror in
16 some ways is comparable to what was going on with the
17 sexual abuse of children.

18 **MR. SHERRIFF-SCOTT:** Okay.

19 **REVEREND DOYLE:** Saying -- they are two
20 different things.

21 **MR. SHERRIFF-SCOTT:** Fair enough.

22 And one of the last documents -- can I, just
23 without taking you to it because we needn't belabour the
24 paper. But at some point, you got into some conflict with
25 one of the American archbishops regarding your chaplaincy

1 status in the U.S. military and that came to what many, no
2 doubt, and you and I know others consider an unfortunate
3 end from the point of view of concerns about fairness. And
4 when that happened obviously that didn't further enamour
5 you to the Catholic Church hierarchy in the United States,
6 did it?

7 REVEREND DOYLE: When that happened I did
8 not take it ---

9 THE COMMISSIONER: Sorry, what happened? I
10 didn't ---

11 MR. SHERRIFF-SCOTT: Okay.

12 Well, what happened, I guess, is shortly
13 before your intended retirement time from the chaplaincy in
14 the U.S. military.

15 REVEREND DOYLE: Yes.

16 MR. SHERRIFF-SCOTT: The bishop or
17 archbishop responsible for -- can I use the expression --
18 the province or the diocese of the U.S. military?

19 REVEREND DOYLE: It's an archdiocese.

20 MR. SHERRIFF-SCOTT: It's an archdiocese.

21 Would have had to have given his seal of
22 approval for you to continue to a certain period of time.

23 REVEREND DOYLE: That's correct.

24 MR. SHERRIFF-SCOTT: And that was withdrawn?

25 REVEREND DOYLE: That's right.

1 **MR. SHERRIFF-SCOTT:** And your view was that
2 was as a result of the expression of your public views on
3 these issues?

4 **REVEREND DOYLE:** I have never made that
5 public statement.

6 **MR. SHERRIFF-SCOTT:** I'm asking whether
7 that's your view.

8 **REVEREND DOYLE:** No.

9 **MR. SHERRIFF-SCOTT:** Okay.
10 Did that embitter you towards the hierarchy
11 of the Church?

12 **REVEREND DOYLE:** No.

13 **MR. SHERRIFF-SCOTT:** No, okay. Fair enough.

14 Can I ask you to turn to page 32? Now, you
15 said earlier that you had never been asked to work for a
16 diocese but would do so should you be asked. And I just
17 want to question that statement in contra-distinction to
18 what appears at the fourth paragraph starting with the
19 words:

20 "Obviously, I am not a hot prospect for
21 work in any Catholic organization ..."

22 And just this is another media article.

23 **REVEREND DOYLE:** Let me just say that I was
24 not aware until today that this letter was put on a
25 website. This was a personal, private letter I sent to

1 several friends.

2 **MR. SHERRIFF-SCOTT:** It's out in traffic
3 now.

4 **REVEREND DOYLE:** I didn't even know it until
5 today.

6 **MR. SHERRIFF-SCOTT:** Yes, it's on -- anyway,
7 the point is the fact that it wasn't in your mind to be
8 published may have led you to be more candid if anything,
9 as opposed to less candid about your views. Isn't that
10 fair?

11 **REVEREND DOYLE:** It's possible.

12 **MR. SHERRIFF-SCOTT:** Okay. Well, under this
13 sort of confidential point of view you typically would feel
14 more free to talk if you don't think it's going to be
15 published; is that what you're saying?

16 **REVEREND DOYLE:** Possibly.

17 **MR. SHERRIFF-SCOTT:** Okay. And you say:

18 "Obviously, I am not a hot prospect for
19 work in any Catholic organization, at
20 least not on this planet. More
21 important, I have no intention or
22 desire for any such work."

23 Now, that's not consistent with what you
24 said earlier.

25 **REVEREND DOYLE:** Yes, it is. I said earlier

1 that if I had been asked by any diocese or any religious
2 order to assist them with my expertise in dealing with a
3 case of sexual abuse by a cleric, I would have acquiesced
4 and said "Yes, if I can help, I will."

5 This is different. This referred to actual
6 working and functioning as a parish priest or something of
7 that nature.

8 **MR. SHERRIFF-SCOTT:** That's what you say you
9 are referring to here?

10 **REVEREND DOYLE:** That's right. That's what
11 I was referring to.

12 **MR. SHERRIFF-SCOTT:** Okay.

13 **REVEREND DOYLE:** And I still would, you
14 know, offer my expertise to a diocese if I were asked.

15 **MR. SHERRIFF-SCOTT:** And notwithstanding
16 your last statement in that paragraph, when you say:

17 "For me it's primarily the victims and
18 survivors, their families and friends
19 ..."

20 Not that there is anything wrong with that
21 point of view, but that that's what your orientation is in
22 terms of work and you have no desire to work for a Catholic
23 organization on that issue?

24 **REVEREND DOYLE:** No, that's not what I said.
25 I said that's my primary orientation and as far as working

1 for diocese as an expert or to assist them in this issue I
2 would do it, which is different than working as a parish
3 priest or a teacher in a school or something of that
4 nature.

5 **MR. SHERRIFF-SCOTT:** Thank you.

6 Now, just on your C.V. there is one thing
7 that you referred to as the:

8 "... concept of religious duress."

9 **REVEREND DOYLE:** Yes.

10 **THE COMMISSIONER:** Wait a minute now, we're
11 going back to the C.V. which is in?

12 **MR. SHERRIFF-SCOTT:** Well, sorry, it's not
13 on a C.V. but it's on your anticipated summary of evidence
14 which we don't have but in the development of what you were
15 going to say today, one of the points that you were going
16 to refer to is the concept of what you consider to be under
17 the heading religious duress. Correct?

18 **REVEREND DOYLE:** If I'm asked, yes.

19 **MR. SHERRIFF-SCOTT:** It's referred to in
20 your anticipated outline. So I get that as notice to me
21 that that's what you are probably going to say.

22 **REVEREND DOYLE:** I don't have that in front
23 of me, but I think you're right. I did review it a couple
24 of times.

25 **MR. SHERRIFF-SCOTT:** And when you referred

1 to earlier your opinions not having been rejected by a
2 court on other than constitutional-type issues with respect
3 to division of church and state powers, I just want to task
4 you on one question with respect to that, okay?

5 **REVEREND DOYLE:** Sure.

6 **MR. SHERRIFF-SCOTT:** And I don't know -- the
7 Commissioner may not have this but other counsel do.

8 **THE COMMISSIONER:** Okay, can I have it?

9 **MR. SHERRIFF-SCOTT:** And the witness will
10 need a copy as well. I have more.

11 **(SHORT PAUSE/COURTE PAUSE)**

12 She'll hand up a copy of that case to you
13 and you can -- we can debate it for a moment.

14 **THE COMMISSIONER:** Thank you.

15 **MR. SHERRIFF-SCOTT:** Now, this is a case in
16 which, I understand, and we'll get to it -- your opinion on
17 the question of religious duress was proffered in
18 collaboration not just with other experts, and if we turn
19 to page 2 of 15 you'll see it's the New Jersey Court of
20 Appeal.

21 **REVEREND DOYLE:** Okay.

22 **MR. SHERRIFF-SCOTT:** Okay, and do you
23 remember this?

24 **REVEREND DOYLE:** No, I have never seen this.

25 **MR. SHERRIFF-SCOTT:** Okay. Did you offer an

1 opinion on religious duress that was rejected by a trial
2 division, trial judge? Let me just refer to the document.

3 **REVEREND DOYLE:** Yes, you better, I ---

4 **MR. SHERRIFF-SCOTT:** That's fine.

5 Why don't you flip forward a bit to page 10
6 of 15? You'll see the page markings in the upper right
7 corner, and you'll see the Roman numeral ii and it's the
8 paragraph just above that.

9 Now, if you refer to the sentence in the big
10 textual paragraph:

11 "The trial judge issued the following
12 interlocutory orders ..."

13 **REVEREND DOYLE:** Okay.

14 **MR. SHERRIFF-SCOTT:** And if you look in the
15 middle of -- towards the middle of the page it says:

16 "Paragraph six, August 7, '98, order
17 barring Father Thomas P. Doyle ..."

18 That's you.

19 **REVEREND DOYLE:** That's me.

20 **MR. SHERRIFF-SCOTT:**

21 "... from testifying as an expert on
22 the plaintiff's behalf."

23 And the issue, if I can summarize it for
24 you, it's described in the next page but let's see if I can
25 orient you with just a verbal description, was:

1 "... whether or not you ought to be
2 barred from giving *vive voce* or oral
3 testimony before the trial division
4 judge on a concept of religious
5 duress."

6 And the trial judge barred your opinion and
7 that was upheld by the New Jersey State Court of Appeal.
8 Does that jog your memory?

9 **REVEREND DOYLE:** I believe -- now, I
10 remember -- I've never seen this decision but I do recall a
11 discussion with one of the attorneys about why I was
12 barred.

13 **MR. SHERRIFF-SCOTT:** Okay.

14 **REVEREND DOYLE:** And this was part of it.

15 **MR. SHERRIFF-SCOTT:** You wouldn't even have
16 appeared. Your opinion in writing was proffered and then
17 it was rejected?

18 **REVEREND DOYLE:** I don't recall if I gave a
19 written opinion or if it was a deposition.

20 **MR. SHERRIFF-SCOTT:** Okay. Either/or the
21 judge saw what your evidence was intended to be when you
22 were to take the stand.

23 **REVEREND DOYLE:** That's right.

24 **MR. SHERRIFF-SCOTT:** And rejected the idea.

25 Now, this was not rejected on the basis of a

1 division of powers between church and state, was it?

2 REVEREND DOYLE: No, he didn't accept the
3 idea of the theory of religious duress at the time.

4 MR. SHERRIFF-SCOTT: And when he refers to
5 the -- do you know what a net opinion is in U.S.
6 jurisprudence?

7 REVEREND DOYLE: No.

8 MR. SHERRIFF-SCOTT: Well, it means that
9 there is no foundation at all for the opinion. In other
10 words, there is no factual sub-strata either identified on
11 a scientific or sociological basis or otherwise.

12 REVEREND DOYLE: At this time, yes.

13 MR. SHERRIFF-SCOTT: Yes, that's the case?

14 REVEREND DOYLE: I'm not sure. I haven't
15 read this and I don't -- it was never explained to me what
16 it was.

17 MR. SHERRIFF-SCOTT: Okay. Well, that's the
18 ruling.

19 REVEREND DOYLE: Okay.

20 MR. SHERRIFF-SCOTT: But in your experience,
21 that opinion that we just referred to as having been
22 rejected by the court of appeal in fact -- let me just back
23 up on your background. You are not a psychologist although
24 you have worked with them?

25 REVEREND DOYLE: Yes.

1 **MR. SHERRIFF-SCOTT:** You're not trained
2 medically although you have teamed with doctors in the
3 context of your work on abuse?

4 **REVEREND DOYLE:** M'hm.

5 **MR. SHERRIFF-SCOTT:** Neither are you a
6 sociologist.

7 **REVEREND DOYLE:** I'm a political scientist
8 by degree.

9 **MR. SHERRIFF-SCOTT:** Fair enough, but your
10 theory is not based on a methodology of scientific
11 sociological or statistical methodology from the point of
12 view of gathering evidence to support it. It's anecdotal?

13 **REVEREND DOYLE:** I'd like to explain briefly
14 what this is all about because ---

15 **MR. SHERRIFF-SCOTT:** Can I stop you for a
16 moment? We can debate this with the Commissioner for a
17 moment.

18 **REVEREND DOYLE:** Yeah.

19 **MR. SHERRIFF-SCOTT:** What I want to do is --
20 I don't want to engage you in a discussion about your
21 theory because, from my point of view, I'm going to submit
22 that you're not qualified to give an opinion evidence on
23 it.

24 Can I try and see if I can get you to agree
25 that some of the elements of what goes into the opinion and

1 whether or not you have expertise on it? That's really
2 what I'm doing here, as opposed to having the opinion
3 disclosed because that's what I'm objecting to. Okay?

4 **REVEREND DOYLE:** Okay.

5 **MR. SHERRIFF-SCOTT:** The question of duress
6 is really an analysis of the psychological or mental
7 factors operating on a victim from the point of view of
8 analysing why he or she may not come forward.

9 **REVEREND DOYLE:** Yes, but my part in that
10 did not directly -- was not directly involved with the
11 psychological dimension.

12 **MR. SHERRIFF-SCOTT:** That's right. And the
13 point is there is a big psychological dimension to that.
14 It's an assessment of the psychological disposition of a
15 person and what factors weigh and operate on that person's
16 mind or psyche from the point of view of what decisions
17 they take.

18 **REVEREND DOYLE:** Yes.

19 **MR. SHERRIFF-SCOTT:** Okay. And you are not
20 a psychologist?

21 **REVEREND DOYLE:** No.

22 **MR. SHERRIFF-SCOTT:** And you are not a
23 clinician in that regard?

24 **REVEREND DOYLE:** No, I'm not.

25 **MR. SHERRIFF-SCOTT:** Okay, so that's all I

1 need to explore with you. An argument then will ensue
2 about whether or not you should give that opinion.

3 **REVEREND DOYLE:** Well, wait a minute now.
4 Can I say something, Your Honour?

5 **MR. SHERRIFF-SCOTT:** Just so that you know,
6 we are at the qualification stage.

7 **REVEREND DOYLE:** Yeah, but you completely
8 misrepresented my approach to this concept of religious
9 duress.

10 **MR. SHERRIFF-SCOTT:** No, I wanted to
11 identify ---

12 **REVEREND DOYLE:** And you haven't identified
13 it correctly.

14 **MR. SHERRIFF-SCOTT:** Well, I've identified
15 that there is a major psychological component to this,
16 right?

17 **REVEREND DOYLE:** There is.

18 **MR. SHERRIFF-SCOTT:** All right.

19 **REVEREND DOYLE:** And I had nothing to do
20 with that. Well, I have something to do with that.

21 **MR. SHERRIFF-SCOTT:** Well, I agree with
22 that. And that's as far as I'm going to go.

23 **REVEREND DOYLE:** Okay.

24 **MR. SHERRIFF-SCOTT:** Okay?

25 And there are other reasons for not

1 reporting that you typically identify, fear, et cetera.
2 These factors are -- can we agree that you have not
3 conducted a clinical assessment or an analysis of this
4 based on a methodology that is accepted from a social
5 sciences or a medical sciences point of view?

6 **REVEREND DOYLE:** No, and I never intended
7 to.

8 **MR. SHERRIFF-SCOTT:** I am not saying you had
9 intended to. I only want to identify the qualifications
10 issues.

11 **REVEREND DOYLE:** Well, you're going about it
12 backwards.

13 **MR. SHERRIFF-SCOTT:** Well, maybe I am.
14 You'll have to forgive me, but the point is, from your
15 point of view and from the point of view of having you
16 qualified as an expert to give opinions, I want to identify
17 whether or not you have that experience from a clinical
18 point of view to conduct these studies and having not
19 conducted them is the point I'm trying to establish. Fair?

20 **REVEREND DOYLE:** I've never conducted
21 studies in this and that was not my purpose in developing
22 the whole approach to religious duress. That was not my
23 role in the development of the idea. It was to conduct
24 studies or to elucidate the psychological or the emotional
25 impact.

1 **MR. SHERRIFF-SCOTT:** But the theory is a
2 psychological theory. Is it not?

3 **REVEREND DOYLE:** It is a -- well, it's both
4 a -- it's multi-dimensional or a multi-disciplinary theory.
5 It has to be based on something that can cause the duress.
6 And that was where my part in the research came where I was
7 qualified to indicate that there are reasons to believe
8 that people can be induced to, you know, relate to a
9 certain amount of fear.

10 **MR. SHERRIFF-SCOTT:** Well, what you were
11 doing from an anecdotal or historical perspective was
12 identifying what your opinion was about what factors might
13 contribute to that happening.

14 **REVEREND DOYLE:** No, I'm not. You are
15 misconstruing the whole thing. You are misinterpreting it
16 or you are trying to describe it in a way that doesn't
17 clearly describe what it is.

18 **MR. SHERRIFF-SCOTT:** Well, if I may back up
19 then, from the point of view of there's a large part that
20 is psychological or medically based in terms of analyzing
21 the psychological response of an individual in the context
22 of reporting, that's number one.

23 Fair? That's part of it.

24 **REVEREND DOYLE:** I am not quite sure I
25 understood your question.

1 **MR. SHERRIFF-SCOTT:** Well I think we already
2 agreed on that. Your theory, the theory ---

3 **REVEREND DOYLE:** Yeah.

4 **THE COMMISSIONER:** In this case here?

5 **MR. SHERRIFF-SCOTT:** Yes.

6 **THE COMMISSIONER:** Okay.

7 **MR. SHERRIFF-SCOTT:** This theory -- and it
8 is the same theory that we've referred to in the State
9 Court of Appeals under the same description.

10 **REVEREND DOYLE:** M'hm.

11 **MR. SHERRIFF-SCOTT:** The theory hasn't
12 changed any since then. Has it?

13 **REVEREND DOYLE:** Possibly developed, yeah.

14 **MR. SHERRIFF-SCOTT:** Okay, so backing up.
15 This theory is not predicated on any defined methodology
16 that would apply to a social sciences assessment like a
17 psychologist or a sociologist. It is anecdotal.

18 **REVEREND DOYLE:** The individuals who
19 supplied that dimension of it were the psychological
20 experts.

21 **MR. SHERRIFF-SCOTT:** All right.

22 **REVEREND DOYLE:** But you'd be better off
23 talking to them about that.

24 **MR. SHERRIFF-SCOTT:** Exactly. And we'll
25 have that debate at a later time. So those are my

1 questions. Thank you very much, Father.

2 **REVEREND DOYLE:** Thank you.

3 **THE COMMISSIONER:** All right.

4 Re-examination?

5 **MR. ENGELMANN:** I'll just be a moment, sir.

6 **THE COMMISSIONER:** Sure.

7 **(SHORT PAUSE/COURTE PAUSE)**

8 **THE COMMISSIONER:** Actually, why don't we
9 take a short break? I think I need a short break. Ten
10 minutes, please.

11 **THE REGISTRAR:** Order; all rise. À l'ordre;
12 veuillez vous lever.

13 The hearing will resume at 5:25.

14 --- Upon recessing at 5:14 p.m./

15 L'audience est suspendue à 17h14

16 --- Upon resuming at 5:32 p.m./

17 L'audience est reprise à 17h32

18 **THE REGISTRAR:** Order; all rise. À l'ordre;
19 veuillez vous lever.

20 The hearing is now resumed. Please be
21 seated. Veuillez vous asseoir.

22 **THE COMMISSIONER:** Thank you. Mr.
23 Engelmann.

24 **MR. ENGELMANN:** I'll just be a moment. I
25 may have a question for you, Mr. Doyle -- I'm sorry --

1 Father Doyle.

2 REVEREND DOYLE: Okay.

3 --- RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MR. ENGELMANN:

4 MR. ENGELMANN: Father Doyle, you were asked
5 several questions about some emails that took place in
6 September of 2000?

7 REVEREND DOYLE: Yes.

8 MR. ENGELMANN: And you were asked several
9 questions about, for example, interviews that you had with
10 the Boston Globe in or about 2002 and early 2003.

11 REVEREND DOYLE: Yes.

12 MR. ENGELMANN: And you acknowledged that
13 those were your views at that time?

14 REVEREND DOYLE: Yes.

15 MR. ENGELMANN: What would you say your
16 views today about the hierarchy of the Catholic Church or
17 the officials in charge of the Catholic Church -- and this
18 was predominantly I think in the U.S. that you were
19 speaking about?

20 REVEREND DOYLE: Yes.

21 MR. ENGELMANN: Could you reflect on that?

22 REVEREND DOYLE: I guess my view today would
23 be -- it's hard to because it's so different. It's such a
24 mixed bag in the sense that there are so many different
25 kinds.

1 I would overall say that as I've learned,
2 especially in the past seven years, an immense amount about
3 the sexual abuse issue, much more about the internal
4 dynamics, what has happened, why things happened, why they
5 weren't done. And I would say that I've had to admit that
6 my views have -- if you want to use the term "mellowed out"
7 -- but they've expanded.

8 I have been part of the movement that I no
9 longer think that the adversarial approach is constructive
10 and productive, and that I would prefer to see a
11 significant amount of reconciliation and working together
12 and acknowledgement of both. And on the part of the
13 victims' community as well; to be part of something so that
14 the end result in the long run, the short term and the long
15 term, is a society with private institutions. The churches
16 are much more receptive to issues such as sexual abuse of
17 children and can deal with them in a non-hostile, anger-
18 invoking atmosphere.

19 I am not sure if that is clear. I guess the
20 best way I could qualify it is to say that my views now are
21 probably less inflammatory and more productive in the sense
22 that I have learned a great deal and I think learned why a
23 lot of things have been done and not been done.

24 **MR. ENGELMANN:** Okay, thank you. Those are
25 my questions.

1 **THE COMMISSIONER:** Thank you. So I think we
2 will excuse the witness for now. Okay.

3 And so, sir, I don't know that we will need
4 to see you until 9:30 tomorrow morning.

5 **REVEREND DOYLE:** Okay.

6 **THE COMMISSIONER:** Is that fair?

7 I think we keep that. Well, just leave it
8 there.

9 All right. Thank you.

10 **(WITNESS WITHDRAWS/TÉMOIN SE RETIRE)**

11 **MR. ENGELMANN:** Sir, is it your intention
12 then to have this issued argued now on qualifications?

13 **THE COMMISSIONER:** M'hm.

14 **MR. ENGELMANN:** All right. I will turn the
15 floor back over to Mr. Sherriff-Scott then.

16 **THE COMMISSIONER:** M'hm.

17 **MR. SHERRIFF-SCOTT:** Commissioner, do you
18 have the Motion record handy?

19 **THE COMMISSIONER:** I do. Yes, right here.

20 **---MOTION FOR THE EXCLUSION OF THE EVIDENCE OF THOMAS P.**
21 **DOYLE IN THE MATTER OF THE CORNWALL PUBLIC INQUIRY**
22 **BY/REQUÊTE POUR L'EXCLUSION DE LA PREUVE DE THOMAS P. DOYLE**
23 **DANS LA CAUSE DE L'ENQUÊTE PUBLIQUE SUR CORNWALL PAR MR.**
24 **DAVID SHERRIFF-SCOTT:**

25 **MR. SHERRIFF-SCOTT:** I am concerned about

1 the witness' last comment.

2 **THE COMMISSIONER:** About?

3 **MR. SHERRIFF-SCOTT:** I want to draw your
4 attention to something. I didn't cross-examine him
5 specifically on what he considered to be his views at this
6 moment.

7 **THE COMMISSIONER:** M'hm.

8 **MR. SHERRIFF-SCOTT:** But the inference from
9 the questioning is, well, he's altered his view and as he
10 sits here in 2007 it is mellowed, et cetera.

11 I just draw your attention to a number of --
12 two points really. Page 30 is an article -- a private
13 letter in which he expressed his views.

14 **THE COMMISSIONER:** M'hm.

15 **MR. ENGELMANN:** Excuse me.

16 **MR. SHERRIFF-SCOTT:** I'm arguing the motion
17 now.

18 **MR. ENGELMANN:** Well, if you're arguing the
19 motion that's one thing. If you want some sur-reply then
20 let's have it.

21 **THE COMMISSIONER:** So which is it?

22 **MR. SHERRIFF-SCOTT:** Yes, what I'm trying to
23 establish is that some of the documents that I put to the
24 witness are dated 2004, 2006, for example at page 37.

25 Do you want to rise again?

1 **MR. ENGELMANN:** No.

2 **THE COMMISSIONER:** Page 37, m'hm.

3 **MR. SHERRIFF-SCOTT:** Is a July 2006 address,
4 which is just slightly over a year ago. Then there's 2004.

5 **THE COMMISSIONER:** M'hm.

6 **MR. SHERRIFF-SCOTT:** There are others
7 referred to in 2003, et cetera.

8 So ---

9 **THE COMMISSIONER:** Yeah, but you didn't turn
10 him to ---

11 **MR. SHERRIFF-SCOTT:** The question of timing
12 ---

13 **THE COMMISSIONER:** No, association of the
14 rights of Catholics in the Church, you didn't cross-examine
15 him on that, I don't think.

16 **MR. SHERRIFF-SCOTT:** Yes, I did.

17 **THE COMMISSIONER:** Sorry, you might -- I'll
18 just see. I thought I would have marked everything that
19 you did. No.

20 I'm pretty sure, the address to ---

21 **MR. SHERRIFF-SCOTT:** Yes.

22 **THE COMMISSIONER:** Did you lead him to
23 something in there?

24 **MR. SHERRIFF-SCOTT:** You may be right. I
25 may not have put the textual portions of this article dated

1 2006 to him in which he repeats these views and the same
2 level of language.

3 **THE COMMISSIONER:** Wait a minute. Are you
4 saying that in the 2006 article he's toning down?

5 **MR. SHERRIFF-SCOTT:** I beg your pardon?

6 **THE COMMISSIONER:** Is he toning down in
7 2006?

8 **MR. SHERRIFF-SCOTT:** No, not at all.

9 **THE COMMISSIONER:** All right.

10 **MR. SHERRIFF-SCOTT:** And so when I cross-
11 examine a witness, and we had the exchange, and maybe its
12 my fault that I didn't anticipate he was going to say that
13 he's changed his viewpoint or has softened it, but there is
14 much in this document which indicates the contrary, which
15 is what I was going to say. And if you want specific
16 references I'll give them to you.

17 **THE COMMISSIONER:** No, that would -- I can
18 do that.

19 **MR. SHERRIFF-SCOTT:** Thank you.

20 Then just flipping back to the first
21 document that I put to the witness, I would ask you to turn
22 to page 112 ---

23 **THE COMMISSIONER:** M'hm.

24 **MR. SHERRIFF-SCOTT:** --- and after I refer
25 to this I'll leave it and go to the authorities.

1 And that page is the second-last page of the
2 email exchange, and the last three paragraphs I would
3 submit, if you study those paragraphs they undermine the
4 idea that the witness was unaware of what he was dealing
5 with, and you can read them yourself.

6 **THE COMMISSIONER:** M'hm.

7 **MR. SHERRIFF-SCOTT:** Referring to the need
8 for further publicity and lawsuits and so forth would not
9 be consistent with an explanation of a public vehicle
10 website.

11 When you read this I'd submit the inference
12 is clear that he's not referring to something public but is
13 cognizant of the status of the matter.

14 In any event, with those two points I'll go
15 to the authorities.

16 **THE COMMISSIONER:** M'hm.

17 **MR. SHERRIFF-SCOTT:** And I start with a
18 basic premise that what is required of a witness in the
19 circumstances is a level of even-handedness and
20 objectivity, which I submit is not indicated here, and that
21 is a basis upon which a witness can be refused to be
22 qualified and, I submit, ought to be refused if it's
23 indicated that the lack of even-handedness or connection
24 with the events goes beyond what you would expect as a
25 retainer issue, for example, on a piece of civil litigation

1 where an expert is being paid.

2 Something more than that is obviously
3 required because there's a certain amount of basic
4 preferential sort of attitude you can expect from a witness
5 but not an advocate, not a person who is driving for a
6 particular point of view. Whether or not the person
7 actually has credentials, the question is the reliability,
8 and I submit that is a sufficient basis to exclude the
9 evidence.

10 And I will start just briefly with Tab 1
11 which is the *Mohan* case of the Supreme Court of Canada in
12 which there was a question of the exclusion of some portion
13 of an expert and his evidence in the context of a sex abuse
14 case in the criminal environment, and the relevant passages
15 I want to draw to your attention are page 9 of 20.

16 And you'll see -- I'm sure you've seen all
17 this before so I won't belabour it. But there are a number
18 of indicia for the admission of the report.

19 And I submit that you'll see in the cases
20 that follow at the Superior Court level that judges in the
21 trial setting have used either relevance, the proper
22 qualifications or some other issue as the basis for
23 excluding or barring testimony on the basis of an
24 overwhelming connection, bias or lack of even-handedness,
25 or lack of objectivity or advocacy, if I can use those

1 expressions that are pulled from the cases.

2 Under the rubric of one of these headings
3 trial judges use this and have used it to exclude evidence,
4 and you'll hear submissions no doubt that this should all
5 go to weight. I submit that the discretion is available to
6 you to exclude it now and that the connection is
7 sufficiently overwhelming from the point of view of the
8 law.

9 I needn't belabour the *Mohan* case. The *R v.*
10 *L.J* case really regurgitates the proposition from *Mohan*.
11 It too is a case in that similar context in the criminal
12 vein, and it too excludes evidence and refers to the same
13 criteria.

14 Now, touching on cases that are more
15 specific in terms of your authority to use these factors
16 that I've annunciated to exclude evidence, the first is
17 *Fellowes, McNeil* at Tab 4.

18 **THE COMMISSIONER:** M'hm.

19 **MR. SHERRIFF-SCOTT:** And you'll see,
20 Commissioner, at the top of page 457, the second page in,
21 the marginal note "A" is the head note that describes the
22 factual matrix:

23 "An insurance company retained the law
24 firm of FM to act for it with respect
25 to an insurance claim. Cancelled,

1 became disqualified with FM's
2 carriage..."

3 **THE COMMISSIONER:** Dissatisfied.

4 **MR. SHERRIFF-SCOTT:** Dissatisfied, excuse
5 me. Yes, dissatisfied. Thank you. I misread.

6 "...and it terminated the retainer,
7 engaged M then of the SL law firm to
8 assume carriage of the insurance claim
9 and to investigate the possibility of a
10 solicitor's negligent claim against FM.
11 Subsequently FM sued Kansa and it
12 counterclaimed for damages for
13 negligence. At trial Kansa sought to
14 call M to give evidence on the standard
15 of care of a reasonably competent
16 solicitor. FM objected on the ground
17 he lacked independence necessary for an
18 expert witness. FM sought a ruling and
19 they excluded the evidence."

20 But the rationale for it is explained at
21 pages 460, 461 starting at marginal note "D", and there is
22 a description of the role of experts and what is expected
23 from the point of view of admission.

24 **THE COMMISSIONER:** Sorry, what page again?

25 **MR. SHERRIFF-SCOTT:** Page 460, marginal note

1 "D".

2 THE COMMISSIONER: M'hm.

3 MR. SHERRIFF-SCOTT: And the judge refers
4 there to case law:

5 "...on the role of an expert must not
6 be permitted to become advocates. To
7 do so would change or tamper with the
8 essence of the role of an expert which
9 was developed to assist the court in
10 matters which require a special
11 knowledge or expertise beyond the
12 knowledge of the court. In this case
13 the question is whether the conduct of
14 *Fellowes, McNeil* fell below the
15 standard of reasonably competent
16 solicitors handling complex insurance
17 matters. If I look to only two of the
18 seven duties and responsibilities of
19 experts testifying in civil cases that
20 are laid out in the *Icarian Reefer*, the
21 Lloyds reference case or the English
22 report [excuse me] I have to conclude
23 that this would not be the case for Mr.
24 McInnes to assume the role of an
25 expert. The duties are expert evidence

1 presented to the court should be, and
2 should be seen to be the independent
3 product of the expert uninfluenced as
4 to the former content of the exigencies
5 of the litigation. An expert should
6 provide independent assistance to the
7 Court by objective unbiased opinion in
8 relation to matters within his or her
9 expertise; should never assume the role
10 of an advocate."

11 And then there is a description at the --
12 there's some factual issues described. But over at the
13 next page at marginal note "C":

14 "An expert's report cannot be advocacy
15 dressed up as expert opinions. They
16 are the words of Regina v. *Fraser*
17 *River*, et cetera. I note also Justice
18 Reid's reference to two well-known
19 cases dealing with the matter of
20 experts. These references are
21 contained at page 124 in which the
22 judge had averted to the Supreme Court
23 of Canada's dicta in *Mohan* and *Abbey*

24 And so in this case the opinion was excluded
25 on the theory that there was insufficient objectivity.

1 The opinion was not unbiased and that was
2 sufficient connection for the trial judge to exclude the
3 evidence.

4 The next case is at the next tab, *Prairie*
5 *Well Servicing v. Tundra Oil and Gas*. This is a
6 contractual dispute and the principles that are applicable
7 -- the pages are not numbered, but it's paragraph 24.
8 You'll see the paragraphs are numbered in bold.

9 And in this case there was an obvious and
10 direct connection with the witness who was proffered to
11 give expert evidence, and in that paragraph they refer to
12 two problems:

13 "First, he's not an independent expert
14 witness, senior executive of Tundra,
15 and his testimony, it must be said,
16 simply amounted to advocacy for his
17 company. He is too connected to one
18 side of the litigation for his opinions
19 to have much value. To be credible, an
20 expert witness ought to be
21 independent..."

22 And then they refer to the fellows in the McNeil context
23 and cases that I just referred to. And at paragraph 26,
24 the court goes on to adopt the comments of Lord Wilberforce
25 in an English decision:

1 "It is necessary expert evidence
2 presented to the court should be and
3 should be seen to be..."

4 In other words, not only is but should be
5 perceived to be, have a reasonable appearance of
6 independence.

7 "...an independent product of the
8 experts, uninfluenced as to form and
9 content by the exigencies of the
10 litigation. To the extent that it is
11 not, the evidence is likely to be not
12 only incorrect but self-defeating."

13 Again, the next tab, moving quickly through
14 the authorities here, is the *Kirby* case which was a direct
15 motion by the Scotiabank to declare opinion evidence
16 inadmissible, and there was a chartered accountant who was
17 sought to give expert evidence and the issues pertained to
18 the valuation of a business in the context of a claim for
19 lost opportunity, and the witness had a connection with the
20 -- one of the litigants.

21 And at paragraph 22 -- again, the paragraph
22 numbers are numbered in bold; the pages are not -- it
23 refers to the question of admissibility as the threshold
24 and that this issue can affect admissibility.

25 "Expert opinion is admissible only

1 where a judge or jury are unable, due
2 to the technical nature of the facts,
3 to draw appropriate inferences. The
4 object of expert evidence is to explain
5 the effects or facts which otherwise no
6 coherent explanation can be given. The
7 evidence must be necessary to enable
8 the trier to appreciate the matters in
9 issue, et cetera. In the case at bar,
10 in my opinion, the relevant evidence
11 tendered is not of a technical nature.
12 Expert evidence is not necessary to
13 explain the effect. The evidence,
14 particularly that relating to financial
15 statements and the income projections,
16 assuming that the company did not cease
17 to carry on business, are matters with
18 which judges deal with in their own
19 experience."

20 And then over to the next page, they talk
21 about the partiality of the witness in paragraph 27:

22 "I turn now to what I consider to be
23 the most objectionable aspect of his
24 statement and which, in my view, alone
25 makes it inadmissible. It relates to

1 bias and objectivity. The reading of
2 Harder's statement indicates to me a
3 clear favouring of the Kirbys in their
4 financial circumstances, a plight which
5 can be both seen in and inferred from
6 portions of his statement."

7 And then he refers to the factual elements
8 of what that is. And over at the bottom of the next page,
9 starting with the paragraph 34, the judge refers to a
10 couple of cases in England which are applicable and British
11 Columbia.

12 And at paragraph 35 the discussion is more
13 developed on this point, and you'll see the quotation
14 starts where the court is referred to and quotes:

15 "It seems to me that this admission
16 rendered Mr. Fleish' evidence
17 unacceptable as the evidence of an
18 expert on the grounds of public policy
19 that justice must be seen to be done as
20 well as be done."

21 This is clear from the passage in the
22 speech. And then he talks about, in the further indented
23 margin:

24 "While some degree of consultation
25 between experts and advisors is

1 entirely proper, it's necessary that
2 expert evidence presented to the court
3 should be and should be seen to be the
4 independent product of the expert,
5 uninfluenced as to form or content by
6 the exigencies of the litigation.
7 The role of an expert witness is
8 special, owing as he does duties to the
9 court which he must discharge
10 notwithstanding the interest of the
11 party calling him.

12 I accept that neither section 3 nor the
13 authorities under it expressly exclude
14 the expert evidence of a friend of one
15 of the parties. However, in my
16 judgment, where it is demonstrated that
17 there exists a relationship between the
18 proposed expert..."

19 And I emphasize this.

20 "...and the party calling him which a
21 reasonable observer might think was
22 capable of affecting the views of the
23 expert so as to make them unduly
24 favourable to that party, his evidence
25 should not be admitted. However

1 unbiased the conclusions of the expert
2 might probably be the question is one
3 of fact, mainly the extent of the
4 nature of the relationship."

5 And I pause here. Obviously, we're not in
6 the context of civil litigation.

7 **THE COMMISSIONER:** M'hm.

8 **MR. SHERRIFF-SCOTT:** But I would submit the
9 witness' adherence to a certain point of view and
10 perspective is tantamount to a reflection of a closeness
11 and a bias that is referred to in the cases sufficiently
12 that his evidence be disengaged and rejected.

13 They are then -- the court refers again to
14 the duties of the expert, commenting that:

15 "It should be and should be seen to be
16 independent..."

17 Et cetera, and they refer to this as well at
18 the bottom of the page with the last sentence:

19 "Thus, the expert should express his
20 opinion in an objective and impartial
21 manner and must not present argument
22 [argument] in the guise of expert
23 evidence."

24 And then at the next page, at paragraph 38,
25 they repeat this concern about not only actual independence

1 but independence should be seen to be the case.

2 "He must be objective..."

3 At the last sentence:

4 "...and impartial in both reaching and
5 expressing his opinions."

6 And it refers in the next paragraph at the
7 end:

8 "In the case at bar, the statement
9 demonstrates even to a greater degree
10 the engagement of Mr. Harder's personal
11 sympathies or views, demonstrating
12 sufficient bias on his part to remove
13 his expert's mantle..."

14 Which I submit has been demonstrated here
15 through the documents provided.

16 And lastly is the *Montague* case, a case in
17 March of this year, and that's the last tab. At paragraph
18 21, at the bottom of the page and following up to the top
19 of the next page, I would just refer you, Commissioner, to
20 the interdiction requiring the seriousness of the role of
21 gatekeeper for the admissibility of expert witness and the
22 level of scrutiny at the time it's proffered, and that is
23 an interdiction that is being followed by the courts and
24 has developed in jurisprudence, I submit, which allows such
25 evidence to be excluded if the level of lack of

1 objectivity, which I submit is here engaged, is
2 demonstrated.

3 And then just finishing this case, and the
4 point that I made earlier is expressed with greater clarity
5 at paragraph 26. The court says:

6 "Acknowledging the reality of
7 litigation, lots of experts come to
8 court and they're paid by one party or
9 another. So they're not truly
10 independent. But..."

11 The court says:

12 "...there comes a point where the expert
13 is recognized as being an advocate of a
14 position to such an extent that his
15 impartiality cannot be relied upon.
16 The place of such a person is at the
17 counsel table, not in the witness box."

18 And then there are a series of points which
19 the judge uses as considerations to follow in the
20 circumstances.

21 And I would submit based on these
22 authorities, that it is demonstrated that Father Doyle is
23 not sufficiently separated from a particular point of view,
24 which he has expressed in terms of his views. He is
25 connected directly to the diocese. He elucidates a

1 particular incident in his emails which, while he contends
2 does not amount to an allegation of abuse, there is a clear
3 and, I would say, compelling innuendo that arises from
4 those documents. They are aggressive, as he admitted, and
5 his partiality is clearly not engaged -- impartiality, I
6 would say.

7 So for those reasons and the authorities
8 that I've given you, which I submit give you the ability to
9 exclude him, you should do so.

10 Thank you very much.

11 **THE COMMISSIONER:** Thank you.

12 Okay. Mr. Wardle.

13 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. WARDLE:

14 **MR. WARDLE:** Mr. Commissioner, we have a
15 situation here which is somewhat different than the normal
16 situation where you would see this kind of argument in a
17 criminal case in your former life.

18 We don't have one expert and one of the
19 parties you know, putting forward that expert and an
20 argument in isolation as it were.

21 We had a decision by your counsel to call
22 two experts on this issue and there was a reason for that.
23 This has been developed over a long period of time. Your
24 counsel has searched quite exhaustively for having one
25 person who could cover this issue. And at the end of the

1 day they were unable to find one person to adequately
2 explore the perspective in the ways that you've had from
3 other experts.

4 So your counsel made a choice to go with two
5 and I suggest that that's the perspective that you have to
6 use to deal with Mr. Sherriff-Scott's motion, because if we
7 look at Father Morrisey for a moment, and just to remind
8 you of Mr. Talach's very effective examination of Father
9 Morrisey this morning, Father Morrisey has connections with
10 this Diocese. Father Morrisey in fact is probably more
11 connected to this Diocese than Father Doyle has been.
12 Father Morrisey was involved in creating a protocol for
13 this Diocese. Father Morrisey knows a lot of the priests
14 in this Diocese.

15 **THE COMMISSIONER:** Taught them.

16 **MR. WARDLE:** Taught them.

17 **THE COMMISSIONER:** Taught Mr. --

18 **MR. WARDLE:** Correct.

19 **THE COMMISSIONER:** --- Father Doyle as well.

20 **MR. WARDLE:** And he also brings a
21 perspective, and what he said to Mr. Talach this morning,
22 and I took this down hopefully close to verbatim -- was
23 that he agreed with Mr. Talach that his perspective has
24 been from the viewpoint of the priests who were accused.
25 In other words -- and again, I'm not being critical of

1 Father Morrissey but he came to us with that perspective.

2 And so it's important in my view that we
3 have a balance to that perspective, and the balance is
4 provided by Father Doyle. What he said in answer to a
5 question from Mr. Engelmann was that he has spoken
6 passionately and sometimes directly and critically of the
7 institutional church.

8 And really, if you think of my friend's
9 cross-examination of Father Doyle and all the articles that
10 he has taken him through and all of his personal writings,
11 it all comes back to that, that we have a witness who is
12 going to come here who has spoken in the past passionately
13 and sometimes directly and critically of the institutional
14 church. And I say that that's an important perspective for
15 you to have in conjunction with Father Morrissey. In other
16 words, the two to some degree are bookends.

17 And I would also add, and I think it's
18 obvious at this point, that Father Morrissey laid the
19 groundwork for Father Doyle himself because he said in his
20 evidence that Father Doyle had through his 1985 report, had
21 influenced the Canadian approach, particularly the idea of
22 a team approach to these kinds of problems. He also
23 acknowledged his expertise in canon law and, in fact, I
24 think they both acknowledged each other as authorities in
25 this field and as some of the people who have done

1 groundbreaking work.

2 So we have heard from one person who has
3 been a bit of a pioneer in this area. He acknowledges his
4 debt to Father Doyle and that, in my submission, is another
5 reason for us to hear Father Doyle.

6 Let me just turn, if I may, to my friend's
7 authorities because he has ploughed through them with his
8 usual speed and, in my submission, he hasn't quite got it
9 right.

10 First of all, if I could turn up my friend's
11 casebook, and take you to the *Mohan* conditions. And he
12 referred you to page 9 and, of course these are -- as he
13 said, they are well known to all of us. But those are the
14 only four formal conditions, the four conditions set out at
15 page 9: relevance, necessity, absence of any exclusionary
16 rule, a properly-qualified expert.

17 And Mr. Sherriff-Scott is not actually asked
18 -- suggesting to you that Father Doyle doesn't fit any of
19 these four criteria. He acknowledges, as I understand it,
20 that Father Doyle is qualified under the *Mohan* criteria.
21 He is really saying to you that in certain exceptional
22 cases judges have refused to allow an expert to testify on
23 a completely separate basis, on the basis that they have
24 become an advocate.

25 And those cases and you'll see them -- he

1 has gone through them with you -- are all easily
2 distinguishable. The *Fellowes/McNeil* decision at Tab 4 is
3 a case where a lawyer who had acted for one of the parties
4 was now going to be an expert witness for that party.

5 The case at Tab 5 is a case where an
6 employee of a company that was the plaintiff was going to
7 be testifying on behalf of the party. And if you look
8 closely at the case at Tab -- sorry, I'll just deal with
9 the case at Tab 6 -- Tab 6 is a case where the chartered
10 accountants for the party put forward an expert report that
11 if you read it was patently sympathetic and went well
12 beyond the scope of expert evidence.

13 And then the last tab, at Tab 7, the
14 *Montague* case, if you look carefully at that case you'll
15 see that the concerns of Justice Wright about Professor
16 Mauser were, in a number of respects, not simply that he
17 was acting as an advocate but that he didn't meet the *Mohan*
18 criteria in the way -- in the nature of the expertise that
19 he would be offering to the court.

20 So in my submission, none of those cases in
21 fact help us with the situation before you now. And if you
22 look at my friend's reference to Mewett and Sankoff -- this
23 is at Tab 3 -- you'll see they refer to this issue, and
24 this is something he didn't refer you to in his submissions
25 a few minutes ago. At the third page of that extract there

1 is a discussion of a well known English case called the
2 Icarian Reefer and a passage by Justice Cresswell that is
3 always quoted, which talks about independence. But if you
4 go along you'll see in the next paragraph:

5 "Laudable as it may seem at first
6 glance, this statement is difficult to
7 swallow..."

8 **THE COMMISSIONER:** Just a minute.

9 **MR. WARDLE:** I'm sorry.

10 **THE COMMISSIONER:** Where are you?

11 **MR. WARDLE:** I'm at the third page, which is
12 10-46.1.

13 **THE COMMISSIONER:** Oh, okay, I've got it,
14 yes.

15 **MR. WARDLE:** So past the cite from the
16 Icarian Reefer you'll see:

17 "Laudable as it may seem at first
18 glance, the statement is difficult to
19 swallow as taken literally. It is
20 impossible to imagine many experts
21 meeting the high standard it requires.
22 Certainly, very few would survive a
23 reasonable apprehension of bias test."

24 And then a little further on you'll see:

25 "Moreover, it is not entirely clear why

1 partiality should be treated as a pre-
2 condition of admissibility. Obviously,
3 the expert's ties to the party
4 tendering the attack in cross-
5 examination and any partiality can be
6 considered as a matter of weight."

7 And then over on the next page, dealing with
8 the *Inco* decision which I think your counsel referred you
9 to a little earlier this afternoon, you'll see Mewett says
10 -- this is about the *voir dire* process at the bottom of the
11 page:

12 "While reversal of the trial judge's
13 decision was a sound one, the chosen
14 course of proceeding further
15 demonstrates the difficulty of the
16 independence criteria. Requiring a
17 *voir dire* to test the alleged bias of
18 every in house expert is bound to
19 lengthen unnecessarily trials for which
20 expert evidence is required and it is
21 difficult to understand why these
22 matters cannot simply be assessed as a
23 matter of weight."

24 Now, I have a case which I have provided to
25 everyone here except yourself, Mr. Commissioner, and I'll

1 just hand it up. And I haven't given you the entire case
2 so perhaps I'll just indicate that I have given you an
3 extract. This is a case called *Loblaws v. United Dominion*
4 *Industries Limited* (2007) Newfoundland, judgment number 72,
5 and I've given you page 1 and page 38 to 45 because it's a
6 fairly lengthy decision.

7 **THE COMMISSIONER:** M'hm.

8 **MR. WARDLE:** But this case -- it's a recent
9 decision and it quotes extensively from an earlier case
10 starting at page 38, a case called *Corner Brook and Geocon*
11 and a decision of Osborne, J. of the Newfoundland Trial
12 Court.

13 And you'll see that, starting in paragraph
14 70, there is a set of propositions setout which I think we
15 don't need to go through and then you'll see there are --
16 in paragraph 71 the judge in this case cites from the
17 *Geocon* case and you'll see there is a series of
18 propositions again. I'll refer you to -- starting at
19 paragraph 5 over on the next page, "Expert owes duties to
20 the court." "The prohibition against an expert being an
21 advocate" in paragraph 6.

22 And then going further down to -- there's a
23 discussion of the *Ikarian Reefer*. And then over the page,
24 paragraph 13:

25 "In any event, the majority of the

1 authorities cited, albeit without any
2 in depth discussion of the issue,
3 suggest that the independence of an
4 expert is not a necessary precondition
5 to the reception of opinion evidence
6 from that expert."

7 Paragraph 14:

8 "My conclusion is that those factors
9 which may influence the judge's
10 assessment of the reliability of the
11 opinion, once the expert is otherwise
12 qualified go to the weight to be
13 afforded to that opinion. These
14 factors can only be identified and
15 assessed after hearing the examination
16 and cross-examination of the expert and
17 other relevant evidence."

18 And I think, with respect to my friend, what
19 that's intended to say is that there may be the obvious
20 cases where it's clear that the expert is going to be an
21 advocate.

22 So for example, the Kansa case that my
23 friend cites is an obvious case. The case where the party
24 brings forward one of their employees to give expert
25 evidence is an obvious case. And then the judge can rule

1 on that matter at the beginning. But we don't have that
2 situation here.

3 And with all due respect to my friend,
4 whether or not Father Doyle is in fact going to be an
5 advocate in giving his evidence before this tribunal hasn't
6 yet been determined and can only be determined, in my
7 submission, after you hear his evidence.

8 So those are my submissions.

9 You know, as I said when I started, we have
10 a situation here, you know, and it starts because my friend
11 Mr. Engelmann was looking for an expert in this area and
12 that expert could only come from one of two places. It
13 could only come from inside the Church, and there are
14 obvious deficiencies with bringing someone here from inside
15 the Church like Father Morrissey. Or it's going to be
16 someone outside the Church who these days in this charged
17 atmosphere is going to have a different perspective.

18 And I say that at the end of the day once
19 you have both those perspectives you'll be in a position to
20 advance your mandate.

21 Thank you, sir.

22 **THE COMMISSIONER:** Thank you.

23 Mr. Lee or Mr. Talach.

24 **---SUBMISSION BY/REPRÉSENTATION PAR MR. LEE:**

25 **MR. LEE:** Good evening, sir.

1 THE COMMISSIONER: Good evening.

2 MR. LEE: I support Mr. Wardle's comments,
3 as you might expect. I agree entirely with him.

4 I'd like to talk to you a little bit about
5 the nature of what we're dealing with here. We're using
6 the term expert evidence a lot but at this Inquiry it's
7 really contextual evidence.

8 Mr. Engelmann fairly early in the process
9 told us that the purpose of contextual evidence is to set a
10 context and then help us frame all the issues in this
11 Inquiry we'll be examining in the months ahead. It may
12 have been slightly naïve when he said the months ahead
13 rather than the years ahead but it was early in the
14 process.

15 Contextual witnesses here are being chosen
16 because of their expertise in areas touching on the Inquiry
17 and to help us place the Phase I testimony we're going to
18 hear in context. They're here to help us understand
19 technical terms and in many cases, as we've seen,
20 complicated structures, particularly I would say with the
21 Church evidence we've heard from Father Morrissey. There is
22 a lot of stuff that's difficult to wrap our heads around.

23 And what's important to keep in mind is how
24 invaluable these contextual witnesses have been thus far to
25 this Inquiry. I didn't go through the transcripts and look

1 but the number of times that the evidence of Doctors Wolfe
2 or Jaffe alone has been quoted, or cited, or referred to
3 since they've been here has been numerous. We've learned a
4 lot to date.

5 I don't want to take you through a lot of
6 the law. I don't intend to refer very much to what Mr.
7 Sherriff-Scott brought you to.

8 Dealing with the factors in Mohan that Mr.
9 Sherriff-Scott handed up to you, he's got the four
10 criteria, as Mr. Wardle quite rightly points out, the only
11 four criteria. One of those is the necessity in assisting
12 the trier of fact, and that gets into when we're dealing
13 with information likely to be outside the experience of
14 knowledge of the trier and to help you appreciate matters
15 and issues due to their technical nature.

16 As I alluded to a moment ago, when dealing
17 with the Church I submit that's especially necessary, and
18 in particular with the Church, it's important that we get
19 balanced evidence in this area. If that takes us one, or
20 two, or five witnesses that's what we need to do to get it.

21 The Church has more than just a policy here
22 or there. It has an entire body of laws. Those laws are
23 centuries old. They've been codified for almost a century.
24 It's got a complex organizational structure that we've
25 heard a little bit about. It has an incredibly rich

1 documentary history that not only has informed the way the
2 Church behaves and acts in the past but it continues to do
3 that, and there's some interplay. We've heard about the
4 '62 document as an example. And we still don't have a
5 definitive answer, as I don't think any of the canons do,
6 on what that document means at this point. Is it in
7 effect? Is it not in effect? We have no idea.

8 Some of these issues that we dealt with are
9 very controversial, and that's part of the reason we need
10 to hear from Father Doyle. We need to put this in
11 perspective.

12 What's important to understand though is
13 that a lot of these issues aren't controversial.

14 The suggestion that Father Doyle is somehow
15 going to get up here and be an outrageous rogue witness
16 who's off the charts doesn't hold any water as far as I'm
17 concerned. I think we're going to see when he gets in the
18 box, as I hope he does, that many -- I expect Father Doyle
19 and Father Morrissey are going to agree on a great many
20 number of things. We got some indication of that from
21 Father Morrissey already in terms of his very clear opinions
22 on the work of Father Doyle in the '80s and how Father
23 Morrissey built on that. These two are on the same page
24 often, but there are critical issues where they're not on
25 the same page and we need that other perspective.

1 And that role of these expert witnesses, and
2 here I suppose the duelling witnesses, is especially
3 important at a public inquiry, given the important role we
4 have here in ensuring that the public is able to follow the
5 evidence and understand the issues. As much as we in this
6 room, and myself as much as anybody, needs this evidence,
7 the public needs the evidence as well to be able to put
8 this in context, understand what's going on, and be able to
9 appreciate what we're dealing with here.

10 So my submission is that if the evidence is
11 relevant and the evidence is necessary, which I submit it
12 is here, the witness is tendered in the area and the
13 evidence goes in and that's the test. So the issue is to
14 be made what do we do with bias then.

15 Mr. Sherriff-Scott brought you to a few
16 cases and Mr. Wardle brought you to the Loblaws case. I'd
17 like to just -- I don't intend to take a lot of time with
18 this but I want to give you some law on this. The first
19 case -- I've provided copies of all of these to the clerk
20 and I'll hand them out to the parties now. The first case
21 I'd like to talk about is *Ruby v Canada*. It's a 2000
22 Federal Court of Appeal decision.

23 Just so you know, sir, I intend to take you
24 to three cases so I'm not going to bombard you here.

25 As Mr. Sherriff-Scott points out, the

1 parties are getting copies of five cases but I've changed
2 my mind on a couple.

3 Sir, if I can briefly give you the facts of
4 this case. The applicant was subject to decisions of the
5 Privacy Commission under the *Privacy Act*. And he applied
6 for a judicial review of those decisions and those
7 applications were denied and then he appealed the dismissal
8 of the review application to the Federal Court of Appeal.

9 **THE COMMISSIONER:** M'hm.

10 **MR. LEE:** And an issue on appeal was that
11 the reviewing judge had refused to admit the expert
12 evidence of a Mr. Copeland, who was a former law firm
13 partner of the appellant, on the grounds that it was
14 marginally relevant. The evidence in contain was not
15 necessary, and importantly here, that Mr. Copeland was not
16 an independent expert in view of his former association
17 with the appellant.

18 So in this case the evidence was excluded at
19 the outset. It wasn't admitted at all.

20 And if I can take you to page 27 of that
21 decision, sir.

22 **THE COMMISSIONER:** M'hm.

23 **MR. LEE:** At the bottom of page 27, three
24 paragraphs up, there's a heading "Whether the Judge Erred
25 in Refusing to Admit the Expert Evidence of Mr. Copeland",

1 and down at paragraph 131 the court writes:

2 "We've reviewed Mr. Copeland's public
3 affidavit. We have come to the
4 conclusion that it meets the criteria
5 set down by the Supreme Court of Canada
6 in Mohan and that it should have been
7 admitted for the purpose of the
8 judicial review."

9 And it goes into some areas there.

10 If I can take you to paragraph 137, the
11 conclusion:

12 "Finally the Copeland affidavit should
13 not have been excluded on account of a
14 possible bias of the affiant. Such
15 factor goes to the credibility of the
16 evidence not its admissibility."

17 A second case I would like to take you to is
18 *820823 Ontario Limited v. Kagan*. This is a 2003 Ontario
19 Superior Court decision.

20 Do you have that sir?

21 **THE COMMISSIONER:** I do. Sorry.

22 **MR. LEE:** This was an action to recover
23 stock market losses suffered by the Plaintiffs as a result
24 of the actions of their investment advisor, so the advisor
25 and Merrill Lynch itself were sued. After the opening

1 statements the Defendants brought a motion for an order
2 that the evidence of Anthony Davidson, a proposed expert
3 witness to be tendered by the Plaintiffs, was not
4 admissible at trial for a number of reasons.

5 If I can take you to paragraph 18 of that
6 decision on page 3, now as you'll see the court clearly
7 turns its mind to some of the issues that you are being
8 asked to deal with here, and I would like to just read the
9 paragraph if I could:

10 "Finally, the Defendants make the
11 objection that on the face of the
12 report, it is clear that Mr. Davidson,
13 instead of playing the role of an
14 unbiased expert, has become an advocate
15 for the Plaintiffs. Like counsel for
16 the Defendants, I am troubled by expert
17 witnesses who do not understand their
18 role. Nevertheless, it is unsurprising
19 that an expert called by a party will
20 ordinarily give evidence that is
21 helpful to that party. It is part of
22 the expertise of an expert to apply the
23 principles flowing from his or her
24 expertise to a factual situation.
25 While undoubtedly doing so means that

1 the expert has taken a side, this alone
2 does not make the expert an advocate in
3 any impermissible way. Of course, this
4 will remain an open issue when Mr.
5 Davidson testifies. If cross-
6 examination reveals that he has
7 descended into the role of advocate, it
8 will be a matter that may affect the
9 weight of his evidence."

10 So again here we have a situation where the
11 court is electing to hear from the witness and assess the
12 evidence after the fact on weight if there is evidence of
13 bias.

14 The final decision that I am going to pass
15 up is *Tandi Construction v. Flamborough*. It is a 2005
16 Superior Court decision.

17 **THE COMMISSIONER:** Thank you.

18 **MR. LEE:** I have to tell you, Mr.
19 Commissioner, this deals with the conveyance of land, and I
20 didn't understand much of the judgment dealing with any of
21 those issues. But the Plaintiffs called an expert in land
22 use planning and the court assessed his evidence and its
23 reasons.

24 So in this case, it is slightly different in
25 that the evidence had been received and given and then it

1 was dealt with after the fact.

2 If I can take you to page 40 please -- or
3 sorry page 9, paragraph 40. It states that:

4 "The expert, Mr. Fothergill was called
5 by the Plaintiff and qualified as an
6 expert in land use planning."

7 Below in paragraph 41, the second sentence:

8 "At times of giving his evidence he
9 appeared to be speaking on behalf of
10 the Plaintiff and not as an independent
11 expert."

12 And in paragraph 42, we get into the basic
13 principle:

14 "An expert must provide an objective
15 unbiased opinion and not assume the
16 role of an advocate. Mr. Fothergill,
17 although credible in giving his
18 evidence, failed to provide an
19 objective unbiased opinion and this, in
20 my view, lessens the weight to be
21 attached to his opinion."

22 Again, the issue goes to weight.

23 I should mention, you already have the case
24 or you at least were -- it's been mentioned, the *Inco* case.

25 **THE COMMISSIONER:** M'hm.

1 MR. LEE: In that case, it was an issue
2 where, again, the expert, the proposed expert worked for
3 one of the parties and the trial judge declined to qualify
4 the expert on the ground that he was not independent.

5 What we have here is a situation where the
6 court ruled that that on its face wasn't enough. The fact
7 that -- this is a situation, Mr. Commissioner, where he
8 worked for them and it still wasn't enough and, again, it
9 went to weight and not admissibility.

10 So the key issue here is whether Mr.
11 Sherriff-Scott satisfied you that Reverend Doyle is so
12 outrageously biased that he cannot possibly aid in the work
13 of this Commission, and I submit that cannot possibly be
14 the case on what you have before you. Nothing before you
15 serves to render his opinions completely useless and
16 without value in this proceeding.

17 And it has been touched on a little bit, but
18 a key factor to consider here is the nature of this
19 Inquiry. It is not an adversarial process. All of the
20 case law you have been referred to comes from adversarial
21 proceedings where one party is seeking to gain an advantage
22 over another by calling its expert to refute the evidence.

23 That is not the case here. The Commission
24 has called these witnesses to assist in its work, and it's
25 an excellent point raised by Mr. Wardle. If there were one

1 witness out there that the Commission felt was capable of
2 giving this evidence in a completely unbiased, neutral way,
3 that person probably would have been called, but we haven't
4 found that.

5 More importantly, the witness is here and
6 not here to comment on the facts and issue before you.
7 They aren't any sides to take in this proceeding. They are
8 not being asked to take sides, and they are not being asked
9 to comment on what happened here in Cornwall.

10 At this Inquiry, where it is inquisitorial
11 in nature, we should be welcoming divergent opinions and
12 they should be welcomed and embraced. The threshold for
13 the admissibility of that expert evidence at this
14 proceeding, I say, should be lower than in a court
15 proceeding. I mean, we are dealing -- we have some
16 criminal cases that have been handed up to you. Surely,
17 the test has to be lower at this Inquiry than it would be
18 in that scenario.

19 The other issue I would like to comment on,
20 Mr. Commissioner, is that we have a unique issue to deal
21 with here with these witnesses in the sense that we've
22 heard from Father Morrissey a little bit that some of the
23 issues we are going to have here, if we are calling context
24 evidence to deal with the Catholic Church issues, Catholic
25 Church response, canon law, things along those lines, we

1 are not going to find anybody who isn't a Catholic priest
2 to come and testify as an expert on that. It is just not
3 going to happen. Nobody else is going to have the time or
4 the energy or the inclination to educate themselves to the
5 point of expertise. And members of the clergy are put in a
6 difficult position by that. Being a member of the clergy
7 is more than a job, it's a defining way of life.

8 Father Morrissey testified today and the
9 quote I took down was that priests are totally dependent on
10 the Diocese for everything. They are employed by the
11 Church. They are sheltered by the Church. They are paid
12 by the Church. They're dependent on the Church. More than
13 any other field that we are going to call an expert from,
14 these witnesses are inevitably going to be biased in some
15 way. And to use a language familiar today, it's a natural
16 bias. It's not some menacing deliberate bias that we are
17 talking about here.

18 We have heard from Father Morrissey that he
19 has testified and consulted many, many times in litigation
20 and that he's never done so for a victim of abuse. He has
21 connections to a party here. He has filed material in this
22 proceeding. He has devoted his entire life to the Church
23 and nonetheless, we admitted his evidence, and you will
24 make what you will of it, in terms of these issues, it they
25 will go to weight.

1 THE COMMISSIONER: M'hm.

2 MR. LEE: And we did that with a full
3 understanding of these inevitable biases and what we would
4 have to assess.

5 Father Doyle on the other hand has devoted
6 his life to the Church. He devoted his early part of life
7 to the Church, and now, as we understand it, there has been
8 some shift in the nature of his work. But he was at the
9 forefront of the sex abuse issues within the Church 20
10 years ago, and Father Morrissey has praised him here
11 mightily during his testimony for his efforts in the U.S.A.
12 I believe he used the word bemoan to suggest his
13 disappointment at Father Doyle's initial report not being
14 accepted by the U.S. bishops.

15 We need Father Doyle to testify here to even
16 things out a little bit; to give us that different
17 perspective; to give us a different take. He has different
18 life experiences. He has different career experiences, and
19 those all help us.

20 Frankly, Father Doyle was on the inside of a
21 lot of the stuff and now he is not on the inside. He has
22 got that dual perspective that nobody else is going to
23 bring to that proceeding and he is now here willing to
24 speak candidly with us about what he saw, what he
25 experienced, what he's done since. That is exactly the

1 type of person we should be hearing from.

2 Let's not -- no, forget that. As I
3 understand it, there is no issue here with Father Doyle not
4 being an expert. That is not the issue. He is clearly a
5 canon law expert. He's clearly an expert on the response.

6 Mr. Sherriff-Scott can challenge the factual
7 underpinnings of an opinion he's going to give but that
8 doesn't seem to be the argument. The argument seems to be
9 that we've looked at what this man has said in the past.
10 We can anticipate the tone of what his evidence is going to
11 be and we don't like that, so let's not hear from him.
12 That's not the test.

13 The witnesses are not here to discuss what
14 happened in Cornwall. They are here to educate us. They
15 are here to help us understand this. He is clearly an
16 expert. Anything going to bias has been dealt with now.
17 It's been canvassed exhaustively. You have got documents
18 in front of you. You've got emails in front of you.
19 Father Doyle has answered for that and you can do what you
20 will with it by assigning the appropriate weight to his
21 evidence once you hear it, but we have to hear the
22 evidence. We have to know what we are dealing with here.

23 My understanding, and I just want to be
24 clear, is that Mr. Sheriff-Scott has abandoned his argument
25 about timeliness and that he doesn't have enough time to --

1 -

2 THE COMMISSIONER: Yes, he has abandoned
3 that.

4 MR. LEE: If the Commissioner goes Doyle to
5 go -- okay, whatever.

6 THE COMMISSIONER: I'm sorry?

7 MR. LEE: Okay, that's fine.

8 My understanding is that I don't need to
9 speak to the idea of Father Doyle being called to testify
10 but at a later day. That is off the table now, is that
11 right?

12 THE COMMISSIONER: M'hm.

13 MR. LEE: To sum up then, our position is
14 that Father Doyle should be called as an expert. He should
15 be called tomorrow. And that any issues in the nature of
16 what Mr. Sherriff-Scott is discussing should go to weight
17 and not admissibility.

18 Any questions, sir?

19 THE COMMISSIONER: No.

20 MR. LEE: Thank you.

21 THE COMMISSIONER: Mr. Bennett.

22 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR.DAVID BENNETT:

23 MR. BENNETT: Good afternoon, Mr.
24 Commissioner.

25 THE COMMISSIONER: Yes, sir.

1 **MR. BENNETT:** Some of my remarks will be
2 echoing what we've heard from Mr. Wardle and Mr. Lee. I
3 agree with Mr. Lee that we have to go back to first
4 principles of why we have been calling these witnesses.
5 And it's not in the common -- we're not in a civil trial
6 here.

7 What we've talked about is we're looking to
8 find out what happened in Cornwall; how to make sure future
9 Cornwalls don't occur; and we also have Part II. And I
10 won't talk about that.

11 We've been calling this contextual evidence
12 for the benefit of all of us in the room and for the public
13 of becoming more informed on these issues as we move
14 forward and to look at ways to prevent what occurred or may
15 have occurred here from ever happening again.

16 That's the reason why we've had experts. I
17 like the word contextual experts as opposed to just experts
18 because that's really what we're talking about is not an
19 expert as we think of as in a civil or criminal contextual
20 experts, and we've had them. We've heard about ones about
21 sexual abuse, effects of abuse, policy issues, victim
22 services, justice, many that have been extremely
23 informative.

24 And yesterday and today we had very
25 enlightening evidence on canon law and how it pertains to

1 sexual abuse. I think for everyone that was very useful to
2 hear from Father Morrissey.

3 As useful as his testimony was, as I
4 reviewed yesterday's transcripts and what I heard this
5 morning, I heard a perspective that related entirely to
6 clergy and priests or the majority. That was the focus,
7 and it was an excellent focus, certainly for myself and I
8 would imagine for other people, members of the public who
9 are probably as poorly informed as I am -- or maybe they're
10 better informed -- I had a much better understanding of the
11 Church and policies and how things work after that
12 testimony.

13 However, I didn't hear too much about
14 victims in that. In fact, I would have to say that when
15 Mr. Engelmann was qualifying this witness, I heard the
16 words more about how to deal with families of victims, to
17 deal with victims, to deal with children and support
18 groups. I heard more in those few minutes of just
19 qualifying than we did in the whole time.

20 And clearly Father Doyle has his
21 perspective. I don't -- no one is up here saying that he
22 doesn't come with a certain perspective. He clearly does.
23 Mr. Scott's cross-examination exemplified that very
24 clearly; that it's someone who has been an advocate in the
25 past.

1 However, I don't think that's such a bad
2 thing. All of the experts we've had have been shaped by
3 their experiences. They've all had certain types of biases
4 that we're talking about. And it's been shaped by their
5 personal, professional and through their research. And,
6 quite frankly, I don't think that's such a bad thing.

7 We're not looking -- we haven't been looking
8 for contextual experts who don't know something about it.
9 We don't want someone who comes in who's never really dealt
10 with but has a very nice academic approach to it.

11 Father Doyle is coming with a very real
12 perspective based on his experience both inside and as an
13 outsider. I think we saw that today by some of the quotes.
14 He's probably considered an outsider and he even talked
15 about that a little bit. Again, that's not such a bad
16 thing because he's not here for any party.

17 Quite frankly, my understanding of this
18 Commission of Inquiry, there isn't a party. The party is
19 the public interest. I know there's parties to this, and
20 we talked about this party, but the only party that this
21 Commission of Inquiry was set up for and why we have public
22 inquiries is the public interest.

23 **THE COMMISSIONER:** Well said.

24 **MR. BENNETT:** And the question you have to
25 ask; is it in the public interest to hear from him.

1 I would submit that he is no different than
2 from other experts we've heard from, contextual experts,
3 and that we should hear from him. And ultimately, what you
4 hear from him, like everybody else, you have to filter
5 through and determine, as you're very well qualified, to
6 what weight you would apply for that.

7 So for that reason, I would submit that we
8 should hear from Father Doyle. And then subject to what
9 you hear, you'll determine what weight you will give to his
10 evidence.

11 Thank you.

12 **THE COMMISSIONER:** Thank you.

13 Mr. Chisholm.

14 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CHISHOLM:**

15 **MR. CHISHOLM:** Good evening, sir. I'll be
16 brief.

17 Your starting point, I would submit, would
18 be the criteria set out by Mr. Justice Sopinka in the *Mohan*
19 decision. The first issue is that of relevance. The
20 question that you have to ask yourself is are the matters
21 related to Catholic Church -- are there matters relating to
22 the Catholic Church that you, as finder of fact, require
23 assistance by way of expert testimony.

24 I would submit that the fact that we've
25 heard from Father Morrissey already, had him qualified as an

1 expert, would suggest that that is an area that you require
2 the assistance of an expert in.

3 The next issue would be whether or not
4 Father Doyle can be qualified as an expert. And I am
5 assuming that he can be. The issue arises as to whether
6 Father Doyle's past comments that have been referred to
7 during the qualification stage should prevent him from
8 being qualified as an expert.

9 The case law that Mr. Sherriff-Scott put out
10 with respect to the importance, the qualities of an expert
11 witness, I would submit, are correct in that the expert
12 witness must provide an objective, unbiased opinion and not
13 assume the role of an advocate.

14 What we've seen so far, however, from Father
15 Doyle would be his position that he set out before he
16 stepped into the witness box. And I would submit the
17 question with respect to bias -- the question of importance
18 would be whether or not Father Doyle exhibits any sign of
19 bias once he gives an opinion inside the witness box. So
20 it's not what he has said prior to; it's what he will say
21 once he takes the stand and testifies as an expert.

22 The final submission I would make, sir,
23 would be with respect to any expert witness who testifies.
24 It will be open to you as the finder of fact to give the
25 opinion of the expert who testifies in a biased fashion the

1 weight that it deserves. And any witness -- any expert
2 witness who testifies, takes on the role of an advocate,
3 will have his or her evidence dealt with appropriately by
4 you at the end of the day.

5 Subject to your questions, those would be my
6 submissions. Thank you.

7 **THE COMMISSIONER:** Thank you.

8 Mr. Rose.

9 **MR. ROSE:** No submissions.

10 **THE COMMISSIONER:** Thank you.

11 Ms. Im.

12 **MS. IM:** The Ministry may have submissions
13 to make at the end of the Inquiry as to the weight to be
14 given to this witness' ---

15 **THE COMMISSIONER:** To the weight to be
16 given?

17 **MS. IM:** To the weight to be given to this
18 witness' evidence, but we take no position with respect to
19 his qualifications or the admissibility with respect to
20 this evidence.

21 **THE COMMISSIONER:** Thank you.

22 Mr. Crane.

23 **MR. CRANE:** No position, Mr. Commissioner.

24 **THE COMMISSIONER:** Thank you.

25 Ms. Brannan.

1 **MS. SACCOCCI-BRANNAN:** We take no position,
2 Mr. Commissioner.

3 **THE COMMISSIONER:** Thank you.
4 Mr. Carroll.

5 **MR. CARROLL:** No position, sir.

6 **THE COMMISSIONER:** Thank you.

7 Mr. Engelmann. Oh, I'm sorry, Ms.
8 Robitaille. I'm sorry. Sorry. I folded my paper. Okay.
9 It's getting late.

10 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MS. ROBITAILLE:

11 **MS. ROBITAILLE:** Just quickly, our position
12 is that the issues raised by the Diocese in their
13 application go properly to the weight of this expert's
14 evidence and not his exclusion.

15 Thank you.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Sherriff-Scott. Oh, I'm sorry, Mr.
18 Engelmann.

19 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. ENGELMANN:

20 **MR. ENGELMANN:** I think in fairness I should
21 say a few words.

22 **THE COMMISSIONER:** Yes.

23 **MR. ENGELMANN:** After all, we've proposed
24 him as an expert.

25 **THE COMMISSIONER:** M'hm.

1 **MR. ENGELMANN:** My comments have been
2 largely subsumed by some of the comments that have been
3 made. I certainly concur with comments made by Messrs.
4 Wardle, Lee and Bennett.

5 We're seeking to qualify Father Doyle as an
6 expert in canon law and the historical background of clergy
7 sexual abuse with a particular interest in the spiritual
8 and pastoral dimensions of clergy sexual abuse.

9 I didn't hear any argument that the witness
10 was not so qualified. The leading test, of course, is
11 *Mohan* from the Supreme Court of Canada. Relevance has to
12 be met. Clearly, this evidence is relevant.

13 Necessity in assisting the trier of fact, I
14 think that's even more important in the nature of a hearing
15 of this nature.

16 The absence of any exclusionary rule and
17 that he's a properly qualified expert. In my respectful
18 submission, all of those tests are met here and I think the
19 key is we're dealing with a contextual expert in a non-
20 adversarial hearing.

21 I was going to spend some time
22 distinguishing the cases my friend, Mr. Sherriff-Scott,
23 relies on. That has already been done. I have other cases
24 that I was going to hand up from the Ontario Superior Court
25 about the fact that this is really something you must

1 determine at the end of the day. If you have concerns
2 about bias or lack of objectivity, you can give the
3 evidence less weight if you so choose. Other cases have
4 been given to you, so I don't want to clutter the record
5 with more.

6 I would simply say that in these
7 circumstances, you should qualify him, and if you have
8 concerns, deal with them later.

9 Thank you, sir.

10 **THE COMMISSIONER:** Thank you.

11 Mr. Sherriff-Scott.

12 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. SHERRIFF-SCOTT:

13 **MR. SHERRIFF-SCOTT:** You know, I miss Mr.
14 Wardle. I remember saying once ---

15 **THE COMMISSIONER:** You miss him?

16 **MR. SHERRIFF-SCOTT:** I miss him. Yeah, he's
17 not around enough. I think I miss him because, as I said
18 once before, he's so persuasive. What he says sort of has
19 to be.

20 **THE COMMISSIONER:** I thought that was you.

21 (LAUGHTER/RIRES)

22 **MR. SHERRIFF-SCOTT:** Ah, no. That's what
23 I'd like to have.

24 And on that point, he referred to ---

25 **MR. WARDLE:** You miss my dark side.

1 (LAUGHTER/RIRES)

2 MR. SHERRIFF-SCOTT: Your conscience maybe.

3 The point he made about this is necessary
4 from the point of view of, you know, having two experts
5 come and your counsel has made these decisions, et cetera,
6 implies from a factual point of view, which is not before
7 you, that there is no one else. A proposition I reject.

8 Second, I was concerned about what I
9 describe as a bootstrapping of an argument. Father
10 Morrissey is here so we are going to have the yang, the ying
11 and the yang, which I mentioned the other day, or a
12 dialectic, you know, if you want to use a sort of
13 philosophical language to -- the clashing of experts that
14 you should hear.

15 The idea is that Morrissey is gone and,
16 therefore, you have to hear from this man. That's the
17 basic submission. And I submit that at a public inquiry
18 the perceived and actual impartiality of a witness is even
19 more important than indicated in the circumstances because
20 of the public interest function of a public inquiry. In a
21 trial setting, that distinction is you're separating and
22 dealing with a list between two people. In a civil
23 context, there's a public interest feature in the criminal
24 law obviously. But in this case, the public interest is
25 engaged and, therefore, this is a heightened as opposed to

1 a diminished point I would say.

2 And on the *Inco* case that my friend referred
3 to mean the opposite, the procedure adopted was of *voir*
4 *dire* and the court sanctioned the exclusion of evidence if
5 it's indicated after the *voir dire*. And I submit that I've
6 made out a connection sufficiently lacking in perspective
7 and objectivity which should militate in favour of that
8 result.

9 Thank you, sir.

10 --- RULING ON MOTION FOR THE EXCLUSION OF THE EVIDENCE OF
11 THOAS P. DOYLE/DÉCISION CONCERNANT LA REQUÊTE D'EXCLUSION
12 DE LA PREUVE

13 THE COMMISSIONER: Thank you.

14 Well, in spite of the late hour, I think
15 what I have to do is give you my thoughts on this matter
16 immediately.

17 First of all, the motion will be denied. I
18 will hear the evidence of Dr. Doyle.

19 I say that because I agree largely with what
20 has been said in response to this. But first of all, what
21 we're dealing with is a contextual expert and I find that
22 that's a different beast than what is considered in all of
23 the other cases. I find that the cases that Mr. Sherriff-
24 Scott has provided are all distinguishable. Because we're
25 dealing with parties and something directly related to one

1 position that is being advanced and that has to be decided
2 upon in those cases.

3 This is a non-adversarial hearing, and I
4 know that some people take the word inquisition and put it
5 to the Spanish Inquisition and should perhaps look at the
6 dictionary definition of -- an inquisition is like being
7 inquisitive and wanting to find things out and wanting to
8 learn as opposed to the pejorative that we see with the
9 Spanish Inquisition.

10 It is clear to me that what Mr. Sherriff-
11 Scott raised were serious concerns and those are things
12 that I'm going to be keeping in mind when we deal with what
13 weight to be given to this expert.

14 His connections to Cornwall, while they may
15 be there of some concern, really is not going to be the
16 subject matter of his testimony in the same way that with
17 Father Morrissey, we did not look at his connections because
18 they weren't really relevant.

19 With respect to his being an expert, I think
20 Father Morrissey laid the groundwork for him as being an
21 expert in looking at something that Father Morrissey quite
22 clearly indicated was not his domain. His domain was canon
23 law and looking at it from the Church's perspective and
24 from the priests' perspective. And what Father Doyle is
25 going to do is give us a different perspective.

1 And so I think that while Mr. Sherriff-
2 Scott's motion will be denied, I do appreciate the fact
3 that he has brought up the perspective of Father Doyle's
4 past writings and denunciations and that will be very
5 valuable to me in considering his opinion.

6 As well, and I dare say that I think Father
7 Doyle has had the benefit of having to review those
8 documents, and I am hopeful that his testimony will be
9 given in light of that discussion.

10 Accordingly, tomorrow morning at 9:30 we
11 will resume and we will hear his testimony.

12 Mr. Sherriff-Scott, yes.

13 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. DAVID SHERRIFF-
14 SCOTT:

15 **MR. SHERRIFF-SCOTT:** Sir, just for the
16 record, that there be no confusion that the -- I'd submit
17 the cross-examination be accepted as part of the evidence
18 in the whole and that goes to weight. Just to confirm
19 that.

20 **THE COMMISSIONER:** I think that would be ---

21 **MR. ENGELMANN:** That was certainly my
22 intention, sir, so that we didn't duplicate.

23 **THE COMMISSIONER:** Exactly.

24 **MR. ENGELMANN:** Absolutely. So we can apply
25 it over.

1 **THE COMMISSIONER:** Exactly.

2 **MR. ENGELMANN:** Thank you.

3 **THE COMMISSIONER:** Unless there's anyone
4 else objecting to that, I think that is what we do in
5 criminal cases and I think it's a wise move.

6 Now, I would like to finish Dr. Doyle's
7 testimony tomorrow, and I know people want to go back but
8 we might have to sit late tonight, so you might want to
9 make arrangements for tomorrow night. I don't know how
10 long we're going to be, but we'll try to finish it
11 tomorrow.

12 **MR. ENGELMANN:** Sir, I just wanted to remind
13 you and others, we have the motion for standing and funding
14 by Mr. Leroux at 2:00 plus the issue of Mr. Leroux' ability
15 to continue to testify.

16 **THE COMMISSIONER:** M'hm.

17 **MR. ENGELMANN:** We also have Mr. Horn coming
18 back with Mr. Chisholm's application.

19 **THE COMMISSIONER:** Right. That might --
20 well, we'll look at logistics. You know, once we have a
21 witness here, I'd rather deal with the witness first.
22 Those matters, unless they're urgent, can be bumped to
23 another date or later on tomorrow night.

24 **MR. ENGELMANN:** Okay. I was advised by Mr.
25 Chand that he had difficulty late in the afternoon. So it

1 may be another day then, but we'll see where we are.

2 **THE COMMISSIONER:** So you folks talk about
3 logistics and unless it's really urgent, we're going to
4 deal with this witness tomorrow. Later on tomorrow night,
5 we can deal with the residual.

6 All right. Thank you.

7 **THE REGISTRAR:** Order. All rise. À
8 l'ordre. Veuillez vous lever.

9 This hearing is adjourned until tomorrow
10 morning at 9:30 a.m.

11 --- Upon adjourning at 6:45 p.m./

12 L'audience est ajournée à 18h45

13

14

15

16

17

18

19

20

21

22

23

24


25

C E R T I F I C A T I O N

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, Marc Demers a certified court reporter inthe Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Marc Demers, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Marc Demers, CVR-CM