

(ii) CHILD "S"

Child S was the Complainant in respect of counts 9 to 12 in the Indictment, she had been interviewed by the Specialist Services Unit on three occasions, being 1 May, 28 May and 3 August 1992.

The Crown relied on the first and third interviews in support of the allegations contained in counts 9 to 12 of the Indictment.

The jury returned verdicts of guilty to counts 9 and 10, (allegations both based on the first interview of 1 May 1992), and verdicts of not guilty on counts 11 and 12, (based on disclosures made in the interview of 3 August 1992.

S was aged 2 ½ to 5 years for the period in the relevant counts in the Indictment. She was 6 ½ at the time of the evidential interview of 1 May 1992.

### **Support Group Meetings**

The mother of child S did attend the support group meetings, which commenced on 1 July 1992. Importantly this is **after** the dates of the relevant interview in respect of which the accused was found guilty. At p.297 line 5 of the Depositions she stated:

“Am I aware of a support group for parents, yes. I learnt about that group, I was told about it and invited to attend by Jan I think, the Social Worker. Other people in the group are, they are parents of children who are involved in the prosecution. My reason for going along to that group was because the information I received from my daughter was very upsetting and I felt I needed emotional support. I went for information about the Court process.”

It is clear from her evidence that the support group meetings were not a place where parents sat down and compared notes about what the children had disclosed. Her evidence about that was:

“We understood we were not to share that information and did not, it was one of the rules or the understandings of the support group.” [Depositions p.306 line 9]

### **Contact with Other Parents and Sharing Information**

The mother of this child did have some limited contact with other parents, in particular the mother of children P and Q and the mother of child Z (not one of the parents represented by these submissions). It is submitted however that the situation was not one where parents were exchanging information as to the details of their children's

disclosures. The mother of child S was extensively cross-examined as to the contact with other parents at Depositions and at the Trial.

The mother of Child S was not cross-examined about what contact she had with

..... It is acknowledged however that ..... said the mother attended the July/August meeting (at the home of complainant Y) at which a sheet of information was left for parents to take if they wished.

The mother of this child first heard about the inquiry of the Civic Crèche in November 1991, however she did not attend the meeting in December (Trial p.110 line 19). In February 1992 she had a call from the mother of Children P and Q and it appears her recollection of her conversation was that the mother of those children said her children were involved, and that it involved girls as well as boys. The mother of child S asked if either of her daughter's two close friends were involved and the mother of children P and Q indicated she could not tell because the mother was too stressed (D p.302 line 30).

After speaking to the mother of P and Q, the mother of S spoke to her daughter about tickling and about the Crèche. She referred to the questions she asked and stated: (T p.122 line 6)

"I would have started generally talking about who tickles you and is the tickling fun and just general open questions and I would have said about were you tickled at the Crèche."

Subsequently after the Knox Hall meeting she spoke to the mother of Z (not a parent represented by these submissions) and following her discussions she asked her daughter about the toilets. At Depositions p.303 line 16 she stated that the mother of Z had told her about the toilets being a place and that they had been to Peter's house, however she was not informed of any specific allegations. However, her evidence is clear that she did not put any specific allegations to her daughter (D p.308-304/12). Some days later she was having a bath with her daughter, which was a regular occurrence; she asked her daughter what it was like at Peter's house or words to that effect (Trial p.111 line 1). S told her mother that she had had a bath with Peter and then began to wash her mother.

Evidence of what occurred in the bath and what was said is covered in the Depositions p.311 and also at the Trial. At Depositions p.311 the mother of S stated:

“She told me that she had had a bath with Peter and she began to wash me, I said did you wash him and she started to wash me, she then volunteered I washed Peter’s diddle and he washed mine and I said how do you feel about that. She said I don’t know, what do you think about it and I said I don’t know, what do you think about it. She said on one hand it is good because diddles need to be washed and on the other hand it is bad because it was private parts. It should be on my notes. I asked her what happened then and she said she rode Peter’s horse.”

At Trial p.111 line 11 the mother of S stated:

“As to what [S] did with me in the bath, she, it’s hard to make sense, she was talking and she started washing me. The way in which she did it was not casual, she was increasingly not there and involved in what she was doing and she also started that sort of activity that I have seen since, giving very sort of loud and boisterous and moving around the bath a lot so she would hit herself on the faucet and it was like it didn’t hurt her and she just kept moving, she started acting quite differently. Prior to this having baths with my daughter was not an infrequent occurrence, we generally had a bath together on a Sunday night. Her behaviour on this occasion was very different to other occasions when I’ve had a bath with her, it was scary. She was washing me in a methodical way. She made some comments about Ellis and I asked her what happened next and she climbed up astride sort of across my lower stomach and I said where was Peter’s penis and she sort of changed the subject and went funny again and laughed. It wasn’t the same as if it was a joke or something funny happening, it was a hysterical kind of laughter quite different and she is doing it less and less. One of the things I observed I haven’t said anything about because it is really embarrassing and I guess it has taken me kind of a year to believe. She sort of had her mouth open and was moving her mouth up and down just above my genital area and I guess that I just didn’t want to believe what I was seeing and I haven’t wanted to sort of acknowledge that. ...”

As regards S’s disclosure to her mother about urination, at Depositions p.311 line 15 she stated:

“Q. Recall anything mentioned about poohs or wees prior to that?”

- A. The first thing [S] said that was significant to me was we were talking in the car and she said Peter said if you do that you will have to drink the wees and poohs but he didn't mean it and it took me about 12 hours to even hear I just..”

It is clear from the mother's evidence that this was not a case where concepts were being put to a child which were being adopted by that child; rather the child was providing independent detail of matters to which the mother had no knowledge. It is clear that information was volunteered by the child (Trial p.122 line 39):

“Q. The information that was provided to you by your daughter was that information volunteered or a response to direct or specific leading questions?

A. Most of the time it was volunteered.”

Further, if the mother did not have knowledge of these allegations prior to the daughter mentioning them then it cannot be suggested that she has put these specific allegations into her daughter's mind. In respect of that at Trial p.123 line 7 she stated:

“Q. Prior to discussions with your daughter did you know anything about allegations of the accused Ellis urinating on children's faces?

A. No, not that I remember.

Q. What about bathing with children?

A. No.

Q. What about Ellis putting his penis into children's genital parts?

A. No.

Q. What about touching children with needles or sticks prior to when saying anything?

A. No and she has not talked about sticks.

Q. When talking to your daughter can you tell the type of questions you asked? What happened next, that kind of thing?

A. I tried to ask open questions or just to say back to her what she said to me.”

- A. The first thing [S] said that was significant to me was we were talking in the car and she said Peter said if you do that you will have to drink the wees and poohs but he didn't mean it and it took me about 12 hours to even hear I just..”

It is clear from the mother's evidence that this was not a case where concepts were being put to a child which were being adopted by that child; rather the child was providing independent detail of matters to which the mother had no knowledge. It is clear that information was volunteered by the child (Trial p.122 line 39):

“Q. The information that was provided to you by your daughter was that information volunteered or a response to direct or specific leading questions?

A. Most of the time it was volunteered.”

Further, if the mother did not have knowledge of these allegations prior to the daughter mentioning them then it cannot be suggested that she has put these specific allegations into her daughter's mind. In respect of that at Trial p.123 line 7 she stated:

“Q. Prior to discussions with your daughter did you know anything about allegations of the accused Ellis urinating on children's faces?

A. No, not that I remember.

Q. What about bathing with children?

A. No.

Q. What about Ellis putting his penis into children's genital parts?

A. No.

Q. What about touching children with needles or sticks prior to when saying anything?

A. No and she has not talked about sticks.

Q. When talking to your daughter can you tell the type of questions you asked? What happened next, that kind of thing?

A. I tried to ask open questions or just to say back to her what she said to me.”

It is also important to note that much of the detail of the abuse was not known to the mother until after the trial. Like all the other parents, the mother of this child did not have access to the detail of the abuse until after the trial.

### **Attending at Official Meetings**

The mother of S did not attend the December 1991 meeting (Depositions p.302 line 12).

She did attend the Knox Hall meeting and her impression from that meeting was that there were some concerns (Depositions p.304 line 20).

### **Parent/Child Contamination**

Having regard to S's age (6 ½ years) she was able to provide independent detailed evidence about what occurred. The answers she gave do not amount to merely responding to questions to end a difficult conversation.

A further matter arose in the context of this family relating to the preparation of the books taken into the interview by the Complainant.

However, it is clear that these books were not prepared on information given by the mother of S. Refer Trial p.112 line 5:

“The detail of the books and how the story is told would be at her initiative. Some of the writing is mine and some is hers. I wrote something in the book because she would tell me what to write. Some of the drawings are mine. I would do a drawing and she would do a drawing generally but she would tell me often what to draw.”

S had already disclosed and the books were simply a mechanism to help the child deal with the issues. The books were referred to at Trial and the mother was cross-examined about them. They did not contain any detail.

Accordingly, the jury was aware of the books, what they contained and how they came into existence. ~~It was therefore a matter properly before the jury and for them to assess~~ the significance of the books in the context of the evidence. The jury in this case, as with others, was careful in respect of the verdicts it returned.

### **Child/Child Contamination**

It is accepted that S did have contact with other children, in particular Z. However, this needs to be viewed in light of the chronology of S's disclosure. At Trial p.113 line 35 Z's mother stated that:

"As to what contact [S] has had with other children in the Crèche, prior to the first two interviews she had one afternoon visit with her friend [Z] and that was the only time. That is [Z]. She did have contact with a non-complainant child occasionally. The first interview is in May. The contact with Z would have been about eight months, I am guessing, it was a long time before. Since those May interviews she has had contact with [Z]. As to how long after the May interviews the first contact was with [Z] I can't remember. I had the dates written down, can I get them out as I have a poor memory for dates. It was the 7<sup>th</sup> June. From 7 June until the time of the third interview on 3 August [Z] and [S] played together I think on two occasions and they had been out with the Social Worker on one occasion. After the August interview they have continued to have contact."

Accordingly (with regard to the interview that formed the basis of the charge upon which Peter Ellis was convicted), there was no contamination from other children. It is accepted that prior to the third interview there was contact with another child (Z) and that Z and S did discuss Peter Ellis. However S was extensively cross-examined about those discussions and in the end the jury returned a verdict of not guilty.

### **Media Contamination**

The mother of S was not cross-examined about whether or not her daughter had seen any of the media coverage in respect of the suspension of Peter Ellis or subsequent matters.



It is also important to note that much of the detail of the abuse was not known to the mother until after the trial. Like all the other parents, the mother of this child did not have access to the detail of the abuse until after the trial.

### **Attending at Official Meetings**

The mother of S did not attend the December 1991 meeting (Depositions p.302 line 12).

She did attend the Knox Hall meeting and her impression from that meeting was that there were some concerns (Depositions p.304 line 20).

### **Parent/Child Contamination**

Having regard to S's age (6 ½ years) she was able to provide independent detailed evidence about what occurred. The answers she gave do not amount to merely responding to questions to end a difficult conversation.

A further matter arose in the context of this family relating to the preparation of the books taken into the interview by the Complainant.

However, it is clear that these books were not prepared on information given by the mother of S. Refer Trial p.112 line 5:

“The detail of the books and how the story is told would be at her initiative. Some of the writing is mine and some is hers. I wrote something in the book because she would tell me what to write. Some of the drawings are mine. I would do a drawing and she would do a drawing generally but she would tell me often what to draw.”

S had already disclosed and the books were simply a mechanism to help the child deal with the issues. The books were referred to at Trial and the mother was cross-examined about them. They did not contain any detail.

Accordingly, the jury was aware of the books, what they contained and how they came into existence. It was therefore a matter properly before the jury and for them to assess the significance of the books in the context of the evidence. The jury in this case, as with others, was careful in respect of the verdicts it returned.

### **Child/Child Contamination**

It is accepted that S did have contact with other children, in particular Z. However, this needs to be viewed in light of the chronology of S's disclosure. At Trial p.113 line 35 Z's mother stated that:

"As to what contact [S] has had with other children in the Crèche, prior to the first two interviews she had one afternoon visit with her friend [Z] and that was the only time. That is [Z]. She did have contact with a non-complainant child occasionally. The first interview is in May. The contact with Z would have been about eight months, I am guessing, it was a long time before. Since those May interviews she has had contact with [Z]. As to how long after the May interviews the first contact was with [Z] I can't remember. I had the dates written down, can I get them out as I have a poor memory for dates. It was the 7<sup>th</sup> June. From 7 June until the time of the third interview on 3 August [Z] and [S] played together I think on two occasions and they had been out with the Social Worker on one occasion. After the August interview they have continued to have contact."

Accordingly (with regard to the interview that formed the basis of the charge upon which Peter Ellis was convicted), there was no contamination from other children. It is accepted that prior to the third interview there was contact with another child (Z) and that Z and S did discuss Peter Ellis. However S was extensively cross-examined about those discussions and in the end the jury returned a verdict of not guilty.

### **Media Contamination**

The mother of S was not cross-examined about whether or not her daughter had seen any of the media coverage in respect of the suspension of Peter Ellis or subsequent matters.