

(iv) CHILD "R"

Child R was interviewed by the Department of Social Welfare Specialist Services on three occasions on 3 April 1992, 27 April 1992 and 28 October 1992.

There were two charges in the Indictment relating to R. Count 6, which was an allegation of urination on the Complainant (as disclosed in his first interview of 3 April 1992), and Count 7, which related to touching the Complainant's anal area with a stick (as disclosed in the third interview of October 1992).

The jury returned a verdict of guilty in respect of count 6 and not guilty in respect of count 7.

R was aged 2 ½ to 5 years for the period covered by the relevant counts in the Indictment. R was aged 6 ½ to 7 years at the time of the evidential interview.

Accordingly it is submitted that what is significant is the extent of contamination to the child prior to the first interview of 3 April 1992.

This is a case which falls within what His Honour said in the course of his judgment number 2:

“The exchange of information clearly occurred. The extent and significance of it, however, does not appear to support the sinister picture drawn by Counsel. Generally the parents of the Complainants who gave evidence at the Depositions and who were extensively cross-examined do not appear to have been unduly influenced by the sharing of information. More importantly, the question for the Court is whether the children’s evidence has been affected by this conduct.”

Contact with Other Parents

It is accepted that the mother of child R knew _____ and had had contact with her. However, the extent of this contact before R’s first interview, was limited. The mother’s evidence was that she phoned _____ in February 1992 just to say hello but she never attended a support meeting for her (T p.93 line 6).

The mother of R also acknowledged that in about June or July 1992 she received a list of materials from : _____ and that she had some discussions with _____ and told her some things which _____ wrote down. Importantly that information was received after R’s first interview of 3 April.

The mother of R acknowledged there were three parents in particular that she knew, (one of them was the mother of P and Q). They were friends (Trial p.89 line 20). As

regards the mother of P and Q, it appears they had been friends for some time and resided in the same street and at times they did things together. This was no more than a situation where the parents of children who had been friends for some time continued to have contact with each other.

The evidence does not support any **inappropriate** sharing of information between the parents of P and Q and the parents of R. R's mother was questioned extensively about these matters at Depositions and at Trial.

In March 1992, prior to asking her son any questions, the mother of R was aware that there had been disclosures of inappropriate behaviour. At Depositions she was asked about this and at p.595 lines 16-21 she stated that she did not know what children P and Q had specifically said and did not know the specific charges laid in respect of those children.

Also implicit from her evidence at trial was the fact that she was unaware of the allegations the subject of charges until such time as she had spoken to her son.

Her evidence at Trial (p.89 line 30) was as follows:

Q. [R] told us about Peter doing wees on the children's faces and about himself. Did you know of that allegation?

A. I didn't know any allegations that Saturday.

Q. Would you have put such a statement or contention to your son?

A. No, neither would I expect him to say it. I did not know of an allegation that children had been touched in their anal area with sticks. I didn't put such an allegation to my child. There are only two things I have ever asked [R] you might call more direct, that was one, the other was about bulls."

Later, at p.90 line 13 referring to P and Q she said:

"I don't know the nature of the allegations made by those two children. What we have said is that we need to talk to each other after this, I know one or two things, they are not to do with what [R] said happened to him."

Support Groups

~~The mother of R acknowledged attending support group meetings (Depositions p.578~~
line 17). The evening support group meetings commenced on 1 July (Depositions p.306
line 1). That was after R's first interview. It is important to note that one of the rules of
the support group was that information was not to be shared (Depositions p.306 line 10).

Attending Official Meetings

The mother of R attended the meeting in December 1991 (Depositions p.576 line 28).
However it is submitted that the effect was not to create and sponsor hysteria (or as it
was put at the s.344A Application, to create a climate of fear). Her evidence was that:

"After having heard the various persons talking as far as my son was
concerned as to his involvement at the Crèche I thought he was safe."
[Depositions p.576 line 30, Trial p.88 line 36]

It is accepted that after the meeting R's mother did ask questions of her son however,
this was done in an appropriate manner.

Parent/Child Contamination

It is submitted that a close examination of the questioning of the child is required, it
being acknowledged that the mother did ask questions of the child. However this did
not have the effect suggested by Counsel for Peter Ellis. At Depositions the mother of
R stated:

"I spoke to my son about it in very general terms. Sue Sidey and Colin
Eade were both very clear about taking care on how we questioned our
children and not to over-react and I asked him which workers did he
remember and what games he played with Peter. Just general Crèche
conversation." (D p.576 line 34)

Prior to going overseas in 1992 the mother of R was unaware that the inquiry was progressing to any great extent and had only heard about hitting and a growling and physically inappropriate behaviour.

On her return from overseas she spoke to her son and asked him what games Peter had played, whether Peter took him to the park and if Peter ever took him to his house (Trial p.89 line 4). On the following Saturday she decided she would speak to her son for a last time. They were sitting on the bed having a story and the mother said to R:

“Some children have said Peter pulled down their pants and touched their bottoms, do you think that is true or do you know about that?”

Regardless of the view taken about the appropriateness of this question, it is important to look at the answers the child gives, any behaviour which might indicate that he is or is not adopting that statement and any responses indicating he is suggestible. The mother did indicate to her son that the conversation was serious (Depositions p.583 line 10). The child's response and behaviour at the time of Depositions as described by the mother was: (D 577 line 24)

“He became very white, all the colour went out of his face. ... He wouldn't look into my eyes, I can recall it very clearly. He started rocking and he threw himself over me and then sort of sat up, he put his foot into his mouth and he said that Peter did wees and poohs on the children's faces.”

Child/Child Contamination

It is accepted that R had contact with P and Q, however it is submitted that the evidence establishes that discussions in respect of the Crèche were avoided (D p.578 line 10).

Also R was directly asked about this and at Trial p.8 line 1:

“Q. And you and [Q] have been talking about these things that happened, is that right?

A. No.

Q. Never?

A. [Shakes head]"

The suggestion that a parent should not talk to their child about these matters is unnatural and quite contrary to any view of good parenting. The extent to which these parents and others were required to distance themselves from their children regarding these issues over an extended period of time was contrary to every parental instinct and in fact interfered with normal parenting.

Media contamination

This matter was not raised with the parents of this child.

Parental Mindset

It is submitted that the evidence does not establish that the mother of R had a mindset that either the abuse was widespread or of Peter Ellis' guilt after the meetings. She was never asked in cross-examination whether or not she believed the abuse was widespread. Initially she thought her child was safe, after attending the December meeting (D p.576 line 32). However, after another child, (Q) had disclosed and who behaved in a similar way to R, she acknowledged that she had to "*be at least open to the fact...*" that her son may not be telling everything (D p.577 line 12).

Further, at Depositions (p.581 line 6), referring to the time of the December meeting, she stated she had grown to like Peter Ellis.

At Trial R's mother said when she spoke to her son she challenged him; she gave examples: "*How could he have done poohs, that's ridiculous.*" and "*Are you sure?*"