

June 24, 2007 - Daniel J. Shea's speech to the Chamber of Deputies, Italian Parliament.

Abuse Tracker, www.bishopaccountability.org

ROME - JUNE 22, 2007 Good afternoon Ladies and Gentlemen:

I appreciate the kind introduction and admit that I do not stand here in Rome, arguably the center of Western civilization, without a certain sense of trepidation. Nevertheless I turn to the two subjects I have been asked to address. First, a brief synopsis of the lawsuit that brought then Cardinal Joseph Ratzinger before the bar of American justice as a civil defendant – before, during, and after the time of his election to the papacy. Then secondly, what are the lessons that, from my limited personal perspective, believe we can learn from this painful experience.

First the story of Cardinal Ratzinger. In 2001, I had heard Cardinal Law in Boston state publicly that, “We only thought it was a sin we didn’t know it was a crime.” I will spare you the expletives I uttered on hearing that statement from an official of the very institution whose intellectual acumen had made those very significant distinctions the foundation of Western criminal jurisprudence. Needless to say, the so-called “clergy abuse crisis” then had my undivided attention.

Thus, in late 2001, I had heard that some type of instruction had been issued by the Congregation for the Doctrine of the Faith. Being no stranger to the Vatican website www.vatican.va, I found a Latin-only document dated May 18, 2001, known by its first two words in Latin, “Ad exequendam. . . .,” signed by Cardinal Joseph Ratzinger and Archbishop Tarcisio Bertone. With my very rusty Latin that at its best only recognizes clear cognates, I was still able to understand a reference to a document called “Crimen sollicitationis,” clearly a reference to the crime of solicitation,” crime, of course, being a concept that Cardinal Law professed to know nothing about. “Ad exequendam” itself was shockingly disturbing, owing to its conflation of the “grave moral delict” of a priest concelebrating mass with a “minister of an ecclesial community that does not have the dignity of apostolic succession” under the same heading with the grave moral delict of a priest committing a sexual crime WITH, not against, contra, but WITH a minor under the age of 18. The May 18, 2001 letter also imposed pontifical secrecy on internal church proceedings and ordered all the Acts or transcripts of those proceedings sent to the Vatican. I could elaborate at length about the May 18, 2001 letter. Suffice it to say, an attorney within the Office of Public Corruption of the FBI who reviewed the letter, characterized it as “nothing less than an international conspiracy to obstruct justice.”

Then of course, there was the reference in the May 18, 2001 letter to Crimen sollicitationis, a 1962 document of the same Congregation, bearing the signature of Cardinal Alfredo Ottaviani, and purportedly having the approval of Pope John XXIII. Knowing this history of those two, I do not believe for an instant that Papa Giovanni ever knew of the issuance of that document under his name – but that is another story for another day. In any event, crimen appeared in a footnote as having been printed in 1962 by the Vatican Polyglot Press but it had no reference to having ever been published in the Acta Apostolice Sedis. Thus, the hunt was on for a copy of crimen, led chiefly by my good friend, the journalist, Kathy Shaw. It simply arrived in my office one day in a plain brown envelope, no return address, Latin original and English translation.

Crimen itself, I’m sure you have all read. The BBC certainly did a magnificent job of bringing it to public attention. For purposes of brevity let me say only this. When the bishops attempted initially to limit it to matters of the confessional, I had to point out to them that article 74’s reference to sex with brute animals certainly went far beyond any confessional I have ever been in -- and I’ve been in a lot of them! Otherwise the document speaks for itself.

How I then became involved in lawsuits on behalf of victims is another story in itself and I omit it here, other than to move forward to the 1994 lawsuit in Houston against the Diocese of Galveston-Houston. The perpetrator in that case was a seminarian acting as a deacon. He had come to the US from Colombia and after the abuse was discovered, the suit alleges he was spirited out of the country by the diocese. How many times have we heard that story! Ultimately, the Harris County District Attorney issued an arrest warrant for the perpetrator and he became a fugitive from Texas justice. This was the salient fact that caused us to add Joseph Ratzinger as a defendant in the Texas lawsuit in December 2004. It took two months to engage him, but in

February 2005, two months before his election, we legally forced him to answer the lawsuit and he chose to do so by removing = remissione the case from Texas state court to the United States District Court in Houston, Hon. Lee Rosenthal, presiding. (Ironically, a female federal judge of Jewish ancestry). We all know the history after that. Pope John Paul II died, a conclave was called, and the senior cardinal in the conclave was Joseph Ratzinger. Since every Cardinal in that conclave had arguably been his subordinate and, as such, had been a recipient of the May 18, 2001 letter, “Ad exequendam,” my co-counsel Tahira Merritt and I were giving odds on his election.

For the first time in my life I felt in a better place than Nick the Greek. Ratzinger, of course, was elected and took the name Benedict XVI. Meantime, he was still a defendant before Judge Rosenthal. The case then moved forward under our federal rules of civil procedure that call for an early CASE MANAGEMENT CONFERENCE. Thus, in May 2005, we appeared before Judge Rosenthal. Counsel for the diocese and Joseph Ratzinger were all atwitter that their man was now Pope Benedict XVI, not Joseph Ratzinger. Judge Rosenthal simply smiled and remarked, “For now, let’s just call him the ‘Vatican defendant.’” However, thereafter, she simply referred to him in her written orders as Joseph Ratzinger. (Parenthetically, to paraphrase the pundits, the Pope learned that the only difference between God and a federal judge, is that God’s not a federal judge.) In any case, at the May 2005 case management conference, defendant Ratzinger’s lawyers indicated that there might be some activity at the US Department of State. Therefore, Judge Rosenthal entered a written order = ordinanza that put the case on hold and ordered Joseph Ratzinger to file a status report every thirty days.

Ultimately, he reported that the Vatican Nunciature in Washington had sent a diplomatic note to the US Department of State asking the United States Government to intervene in the lawsuit since Joseph Ratzinger, n/k/a Pope Benedict XVI was now a head-of-state and, as such, enjoyed “Head of State Immunity.”The Bush Administration complied and Joseph Ratzinger was dismissed from the lawsuit. The suit is still pending.

Mr. Shea ended with a Power Point presentation.