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St. John's Presbytery
61 Queens Parade
Clifton Hill, 3068

25/4/98

Most Rev. George Pell D.D.
James Gould House
East Melbourne 3002

Your Grace,

Re: Father Peter Searson

I have studied the file submitted to you by Mr. Peter O'Callaghan Q.C. duly appointed Commissioner containing his Report on the enquiry he conducted into allegations against Fr. Searson and detailing the evidence on which that Report is based.

The Church's canons require strict attention to the rules of natural justice and their criterion of proof is moral certitude or proof beyond reasonable doubt. The Commissioner has been punctilious in respecting Fr. Searson's rights. At par. 21.1 of his Report the Commissioner states that he found the evidence in support of the allegation of indecent assault on Julie Stewart "strong and compelling".

I am in total agreement with the Commissioner's finding. Evidence "a tempore non suspecto" has particular force in ecclesiastical jurisprudence, and the Sleeman letter to the Director of the Catholic Education Office, Fr. Doyle, dated 12th November 1985 (p. 19), based as it was on the direct involvement of Shirley Barrett (p.15) and to a lesser extent Sleeman himself effectively establishes the truth of the allegation and counters the objection that memory has been dimmed by the lapse of time. The incident concerning BTV, while not proven to the same degree, is nevertheless supportive of the Commissioner's primary conclusion.

As I have already advised in another context, canon law is inflexible in its prescription of a penal action for sexual interference with minors: can. 1362 extinguishes such action after five years from the time the action was committed, and we do not have the extension granted to the U.S.

The procedure available to you is rather that outlined in canons 1740 - 1747 on the removal of a Parish Priest, Chapter 1 of Section 11 of Book VII of the Code. An important element when the canons speak of resignation is that the Bishop invite the resignation rather than that the Priest spontaneously tender it. Canon 1742 requires that this invitation be

1740-47

preceded by a discussion between the Bishop and two of the Parish Priests from the group set up by the Council of Priests precisely for this purpose; and that it then take the form of advice to the Priest that such a discussion has been held and a clear definition of the reason for the action and the arguments for it. This would also be the time to indicate what conditions the Bishop imposes and what conditions he is prepared to accept from the Priest. He should be asked "in a fatherly manner" to resign and given fifteen days to reply. The Bishop's meeting with the Priest should be carefully notarised.

? who?

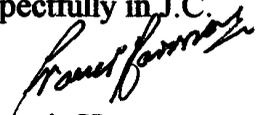
From the Bishop's part the essential condition, carefully expressed as being not a penalty or punishment but a pastoral measure for the welfare of the Church, is a written restriction from the public exercise of the ordained ministry. This would appear both necessary and justifiable, given the publicity about the allegation and the lasting impact of the event on those who had been involved or, to quote can. 1741 n.3 "the loss of the Parish Priest's good name among upright and serious-minded parishioners...where it can be foreseen that these factors will not quickly come to an end". It should include specifically the celebration of the Eucharist (can. 900 #2) and the withdrawal of faculties to preach (can. 764) and to hear Confessions (can. 974 #1) briefly detailing the reasons for the action (can. 51). A further condition should be a limitation on visiting the Parish for any purpose other than the removal of his possessions.

Of the conditions advanced on Fr. Searson's behalf by his solicitors (letter 18th February 1998) that listed under Page 2 (e) that he return to act briefly as Parish Priest at Doveton and then accept another pastoral appointment could not be accepted nor could that listed under Page 2 (f) (iii) where assignment to another office is implied. On the other hand, while he is not entitled to reimbursement for legal expenses incurred, his concern Page 2 (f) (i) & (ii) re residence and financial support (including the period of administrative leave) must be met.

situation?

If Fr. Searson fails to co-operate within the fifteen days, an extension can be granted or a decree of removal can be issued (can. 1744). If on the other hand he demurs, the procedure under canon 1745 would be relevant. Since there is reference to "an eminent canon lawyer" (my guess would be Fr. Roger Austin) I would suggest that extreme care be taken in every detail. This applies not only to the substance of the application of the Chapter of the Code which the situation will require you to invoke but also to the formalities governing individual administrative acts (can. 35 - 47) and individual decrees (can. 45 - 58).

Mr. O'Callaghan's finding should be taken into account in determining the eligibility of the two Complainants for compensation (cf. Can. 128).

Yours respectfully in J.C.


(Rev.) Francis Harman