

Royal Commissioners,
Royal Commission into Institutional Responses to Child Sexual Abuse,
G.P.O. Box 5283,
Sydney, N.S.W., 2001.

26th July, 2016

Mr. Anthony and Mrs. Chrissie Foster (Case Study16 - Melbourne Response),

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Dear Commissioners,

Addition to Submission for Issues Paper 11

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The following is to be added to the end of the '**Mental Reservation or Lying Without Lying**' section on page 24 of my earlier submission:

A more local example of Mental Reservation which caused a sensation in Sydney in 1900, was the divorce case Coningham vs. Coningham. In a book published in 1901 titled 'The Secret History of the Coningham Case' by "Zero", the case, which had two trials, named the Very Rev. Dr. Denis Francis O'Haran, DD, Administrator of St Mary's Cathedral and Private Secretary to His Eminence Cardinal Moran Archbishop of Sydney, as the lover (Co-respondent) who caused the Divorce Suit. Mr. Arthur Coningham was claiming 'damages to the Petitioner's honour and happiness' which were 'assessed at 5,000 pounds'.

The Petitioner, Mr. Coningham, claimed an unfair trial because he believed the Catholic clergy witnesses had used Mental Restriction (Reservation). According to the Sydney Archdiocese Vicar General of the time Fr J.J. Carroll, '...insinuations were made concerning [mental] reservation, and Catholic veracity under oath, that caused a spasm of pain to contract the sensitive conscience of the community.' A very public furor erupted over the issue which led to '...attack after attack, launched in the columns of the daily press' which spread all over Australia.

In the book's introduction, the author "Zero", states 'The entire discussion, which filled many columns, was ably sustained on the Catholic side' by Rev Father Edward Masterson, a Jesuit priest. Fr Masterson would have been well qualified to explain the fine points of Mental Reservation and would have done so with the approval of the Sydney Archdiocese Cardinal.

Below are some of his answers to questions on Mental Reservation and its application as put to him by "The Evangelical Council". Fr Masterson explained and justified its use as follows:

'[Question] (2) But is not a statement made under mental restriction [reservation] a lie? – [Answer] If the statement is made under pure mental restriction, yes. If under broad or non-pure, no. In the latter kind such an outward clue to the meaning which the speaker intends is given as will enable a listener who is on the alert to understand that the words are uttered in a restricted sense.

(3) Is this outward clue always expressed in words? – [Answer] Very often it is not; but it is always discernible from the accompanying circumstances at least; chiefly from the nature of the matter, which should be of such kind as to admit of secrets, and from the position of the speaker, who is driven into a corner, with mental restriction as the only means of keeping a secret, which he has a right, it may be a strict obligation, to keep.

(4) Does not mental restriction cause the deception of the listener? – [Answer] It is never the cause of his deception; it is not unfrequently the occasion of it.

(5) But is it not wrong to use a form of speech which will even occasion the deceiving of the listener? – [Answer] If such a form of speech is used without a proportionately grave reason, or what is called a just cause, yes; if it is used when there is such a just cause for using it, no.'

This 116 year old question and answer examination of Mental Reservation can inform us today.

Question (2)'s answer tells us that clergy believe it is the listeners fault if they don't detect Mental Reservation because the listener should be on alert for clues.

Question (3)'s answer tells us that other than word clues "it is always discernible from the accompanying circumstances..." that mental reservation is being used "chiefly" to avoid admitting "secrets" when "the speaker" "is driven into a corner with mental restriction as the only means of keeping a secret" which for clergy "may be a strict obligation, to keep".

Question (4)'s answer tells us that clergy may justify the deception caused by mental reservation by denying their lying is the cause and blaming the deception on the circumstances (i.e. forcing them to use of mental reservation).

Question (5)'s answers tells us that clergy are free to use mental reservation when faced with a "proportionately grave reason, or what is called a just cause".

The above argument the church used in 1900 to defend itself against accusation of using Mental Reservation under oath in a civil law case has exposed for us the circumstances under which the priesthood may use Mental Reservation.

The sole purpose of all this deception and secrecy is for them to hide the truth; basically Mental Reservation exists and is exercised because they don't want certain truths to be known. It enables them to contain, control and hide the truth.

Mental Reservation is an utterly vacuous attempted justification for lying. In any sensible lay-man's terms, Mental Reservation is designed to provide comfort to the liar – as in the case of a bishop not wishing to own up to moving on one of his child abusing priests.

No matter how they try to justify their use of it, Mental Reservation remains a cause, if not the sole cause of deceiving the listener. Mental Reservation is responsible for deceit if deceit occurs – not the unaware listener expecting and trusting the truth when a priest speaks.

Of great concern is this answer to question number nine of Fr Masterson's responses to "The Evangelical Council":

'(9) Is it lawful to confirm a mental restriction with an oath? – [Answer] If there is a just cause, yes. Otherwise no.

Apart from the fact that once again, it is priests and bishops deciding if the case is just, we have clergy believing they are able to use Mental Reservation even when under an oath in a civil law court case or a Royal Commission hearing.

We submit that the current circumstances of the clergy of the Catholic Church being questioned by the Royal Commission may be considered by those clergy as being a 'grave reason', or 'a just cause' that would justify the use of Mental Reservation.

If so, it is conceivable that no amount or degree of questioning or assurances given, even after swearing on the Bible, can prevent Mental Reservation being used to hide the truth.

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