

THE STATE OF NEW HAMPSHIRE

CHESHIRE, SS

SUPERIOR COURT

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THE STATE OF NEW HAMPSHIRE

V.

93-S-0218, et. al.

GORDON MacRAE

\* \* \* \* \*

TRIAL BY JURY

Volume 8

Pages 8-1 through 8-112

BEFORE

The Hon. Arthur D. Brennan,  
Presiding Justice  
Cheshire County Superior Court  
Box 444  
Keene, New Hampshire 03431

DATE:

Wednesday, September 21, 1994

APPEARANCES:

For the State:

Bruce Elliott Reynolds, Esquire  
and Robert Gainor, Esquire  
Assistant County Attorneys

For the Defendant:

James R. Davis, Esquire and  
Ron Koch, Esquire

CLERK:

Stillman D. Rogers, Esquire  
Clerk

STENOGRAPHER:

Susan Ronayne, RMR  
CSR Certificate #26

1	<u>Witness</u>	<u>Direct</u>	<u>INDEX</u>		
2	Defendant's Motion to Strike		<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
3	Testimony of Leonard				
4	E. Fleischer		8-3		
5	Robert Biron	8-5	8-17	8-26	
6	Frederick R. Laffond	8-28	8-38	8-43	8-45
7	Dennis Horan	8-48	8-52		
8	Deborah Karonis	8-56			
9	John Karonis	8-61	8-66		
10	Maurice J. Rochefort	8-66			
11	Dean Clay	8-81	8-86		
12	David B. Grover	8-99			
13	Jonathan Grover	8-104	8-106	8-107	
14	Patricia Grover	8-108			

INDEX OF EXHIBITS

Defendant's Exhibits

16	<u>Number</u>	<u>Description</u>	<u>Page</u>
17			
18	G1 thru G4	Four Checks	8-17
19			
20			
21			
22			
23			

## PROCEEDINGS

**HEARING OUT OF THE PRESENCE OF THE JURY**

THE COURT: Good morning. Please be seated.

MR. KOCH: Your Honor, may I raise a point briefly?

THE COURT: Yes.

MR. KOCH: Your Honor, for purposes of the record, I wanted to move to strike the testimony of Dr. Fleischer from yesterday. Without reiterating all the points which I did during my voir dire of him, your Honor, he was essentially allowed to do what was found in the Kentucky court to be improper. In the Kentucky court case they didn't put a name on it, that child abuse syndrome, but went ahead and testified to those kinds of factors and the court found that that was not reliable and appropriate testimony and for the record, I would move to strike the testimony.

MR. REYNOLDS: Well, my understanding of the Kentucky court, even if it controlled in this jurisdiction, is they had admitted the testimony and opinions of that particular psychologist or physician actually to prove the truth of the facts asserted by way of an opinion and fitting the syndrome. That was not the purpose for which this testimony was offered, therefore, the case is not on point to begin with.

THE COURT: Okay. The motion to strike is denied and the

1 Court, of course, notes your exception, Attorney Koch.

2 MR. KOCH: Thank you, your Honor.

3 HEARING BEFORE JURY

4 BAILIFF: I want to point out that we changed juror number  
5 one for obvious reasons.

6 THE COURT: What did you do to yourself?

7 JUROR: I tore a ligament over the bone.

8 THE COURT: Oh, that's too bad. Well, just for the  
9 convenience of that juror, she can sit there.

10 JUROR: Thank you.

11 THE COURT: Attorney Davis.

12 MR. DAVIS: Good morning, your Honor. I would call Father  
13 Robert Biron to the stand, if you'd be kind enough to call  
14 the good Father.

15 THE COURT: Would you like or need a pad or something to rest  
16 your heel on?

17 JUROR: I think I'm fine.

18 THE COURT: If you need anything like that or need it to be  
19 raised, we'll try to figure out something.

20 JUROR: Okay. Thank you.

21 BAILIFF: Let's not overdo it, Judge.

22

23

1

ROBERT BIRON

2

who was called as a witness, and having been first duly sworn,

3

was examined and testified as follows:

4

DIRECT EXAMINATION

5

BY MR. DAVIS:

6

Q Be seated. Would you state your name for the record and spell your last name? And remember that I am a little hard of hearing and I'd like to hear what you say.

8

9

A Okay. I'm Father Robert Biron, B-i-r-o-n.

10

Q Where are you employed, sir?

11

A I'm the pastor of St. Bernard's in Keene.

12

Q For those of us who aren't initiated, pastor in the Catholic Church means what?

13

14

A The leader of the parish.

15

Q Okay. So if there is more than one priest at a parish, the pastor is the chief priest?

16

17

A Mmm-Hmm.

18

Q Okay. It may seem silly, but associate pastor isn't used any more?

19

20

A They used to be called associate pastor; now they're called parochial vicars.

21

22

Q Okay. Same job?

23

A Yeah.

1 Q Thank you. Now, how long have you been at St. B's?

2 A As a pastor, I went there in '87.

3 Q All right.

4 A In July.

5 Q July of '87?

6 A Mmm-Hmm.

7 Q Did you have occasion to be at St. B's before then?

8 A I was an associate from '78, July '78 to June of '81.

9 Q Now when you were an associate, did you have an office at  
10 St. B's?

11 A I did.

12 Q And which office was that?

13 MR. REYNOLDS: Your Honor, may we approach, please?

14 THE COURT: You may.

15 CONFERENCE AT THE BENCH

16 MR. REYNOLDS: I guess I'd like a proffer as to relevancy. He  
17 indicates his contact with the parish is from 1978 through  
18 '81. The indictments here and all the evidence we have  
19 concerning any criminal acts, whether charged or uncharged,  
20 concerning Tom Grover are from 1983 so I wonder what  
21 possible information he could have for us that has any  
22 relevance at all to the charges before the court.

23 MR. DAVIS: Your Honor, as to the question that I was

1        attempting to get an answer out of, I believe there's been  
2        some dispute as to whether people actually had offices at  
3        St. B's, whether there were certain offices that were  
4        routinely used by certain people given their position.

5        THE COURT:        How is he going to know that between those dates?

6        MR. DAVIS:        I don't think he can testify as to those dates but  
7        I believe it would be strong circumstantial evidence if  
8        that's what happened before that date and that's what  
9        happened after that date. We can offer that. Some of the  
10       priests that were there at the time, they're either very  
11       elderly or now deceased at the time. I believe it's highly  
12       relevant evidence as to, you know, who used what offices  
13       when. There's also been issues raised in the direct  
14       testimony of Thomas Grover that certain doors are locked  
15       and I want to elicit testimony from him that he has never  
16       been aware of those doors ever being capable of being  
17       locked or a key being present for those either before or  
18       after.

19       MR. REYNOLDS: Well, your Honor, we've got a span here of six  
20       years where he has no knowledge at all evidently of the  
21       inner workings of the thing. Now in part the State was  
22       prepared, and we argued in preliminary hearings, the State  
23       was prepared to show access of numerous other juveniles

1 during this same period of time and the Court indicated  
2 that was not appropriate even to show access of those other  
3 juveniles given this case. Now, this individual is being  
4 called for a period before and after the indictments, well  
5 before and well after, to testify as to non access, as it  
6 were. If he testifies to non access, then the State  
7 certainly ought to be able to call all those witnesses to  
8 testify as to access.

9 THE COURT: They will. You will.

10 MR. DAVIS: I don't think I asked about access.

11 THE COURT: You haven't yet.

12 MR. DAVIS: "Where was your office?" My point, this question  
13 was to be, "where was your office?"

14 THE COURT: I'm going to allow the testimony and the State can  
15 follow up on cross, but we'll all know where we are.

16 (Conclusion of Conference at the Bench)

17 MR. DAVIS: I'm not sure if there was a question pending.

18 Will the stenographer--

19 THE WITNESS: If I had an office.

20 Q (by Mr. Davis) Yes. Thank you. When you were the  
21 associate pastor, that was through June of '81, right?

22 A Yes.

23 Q Okay. Did you have an office?

1 A I did.

2 Q Okay. Where was that office?

3 A The southeast, off of the main foyer.

4 Q All right. If I may, if you would be kind enough, behind  
5 you if you flip that pad forward a couple of pages?

6 (Witness approaches diagram)

7 THE COURT: I stepped on my robe. I almost broke my neck.

8 MR. KOCH: Is that an occupational hazard, your Honor?

9 (Laughter)

10 Q (continuing) All right. Father, I'd like to represent to  
11 you that the document you're looking at has been marked as,  
12 if you look in the lower right-hand corner, Defendant's  
13 Exhibit B for Id. Do you see the little blue sticker,  
14 lower right?

15 A Yeah.

16 Q Did I read that, B as in "boy"?

17 A Yeah.

18 Q Okay. I'd like to represent to you that there's been  
19 testimony that that's a diagram of the first floor or part  
20 of the first floor of St. B's rectory. Does that comport  
21 with your memory?

22 A Mmm-Hmm.

23 Q Just need a yes or a no, Father.

1 A Yes.

2 Q The only reason I'm complaining about that is this lady can  
3 only take down what we say.

4 A Yes.

5 Q Now, if we assume that Main Street is at the top of B for  
6 Id., there's an office in the upper right-hand corner that  
7 has what appears to be an "SE." Is that what you refer to  
8 as the southeast office?

9 A Yes.

10 Q During your tenure as an associate pastor, was that where  
11 the associate pastor had an office?

12 A Yes.

13 Q Where did the pastor normally have an office?

14 A The pastor had his office over here.

15 Q Okay. That's the upper left-hand?

16 A Upper left-hand.

17 Q All right. Now, this diagram appears to show three offices  
18 on the right-hand side. Do you remember whether there are  
19 in fact three, or some different number of offices?

20 A Over here there are two offices.

21 Q Not a third?

22 A No.

23 Q All right. You may be seated. Thank you. During the time

1           that you --. And now that you are the pastor, where is  
2           your office?

3   A    My office is up here on the upper left-hand corner.

4   Q    And that's the same place that the pastor had an office  
5           when you were the associate pastor?

6   A    That's right.

7   Q    All right. Do you have an associate or now, a parochial  
8           vicar?

9   A    I do, and his office is here (indicating).

10   Q   The southeast office?

11   A    That's right.

12   Q    Thank you.

13                   (Witness resumes stand)

14   Q    Who is Fred Laffond?

15   A    He is the superintendent of our cemetery and is in charge  
16           of the physical grounds and maintenance of St. Bernard's  
17           parish.

18   Q    All right. Do you ever have any memory of whether or not  
19           the lock on the southeast door ever worked?

20   A    There was never a key to that lock as far--. I never  
21           locked that door when I was there.

22   Q    Okay. Have you ever seen anyone else lock the southeast  
23           corner office door?

1 A No.

2 Q Have you ever seen anyone lock the southwest corner door?

3 A Of my office, my present office?

4 Q I'm going to--

5 A Oh.

6 Q I'm going to a different office, changing subjects.

7 Sorry. The southwest corner office?

8 A I have never seen that door locked.

9 Q Okay. And the door --. You don't have to get up but the

10 door that you just pointed to?

11 A I have never seen that door locked. I can't speak with as

12 much authority with this door as I can with my office door

13 when I was an associate.

14 Q The southwest corner office --

15 A Mmm-Hmm.

16 Q -- that you pointed to a door that appears to be between

17 the office and what's been referred to on that diagram as

18 the entry office?

19 A Mmm-Hmm. Yes.

20 Q To the best of your knowledge, from the time that you first

21 came to St. B's, did the door that separated the reception

22 area or the entry office on the southwest office always

23 have a glass front?

- 1 A Yes. Yes.
- 2 Q That's the type of glass door that you can see through, is  
3 that correct?
- 4 A That's right.
- 5 Q As opposed to frosted glass that you can't see through?
- 6 A I would say a glass door.
- 7 Q Do you ever--. Could the jury hear? I apologize. I have a  
8 problem with those kinds of pitches. Do you ever remember  
9 at either your first or second stay at St. B's there ever  
10 being a couch in the southeast office?
- 11 A No.
- 12 Q Now you have been at St. B's this time for going on seven  
13 years now?
- 14 A Mmm-Hmm. Yes.
- 15 Q And then you were there previously approximately three?
- 16 A That's right.
- 17 Q During that ten year time period, did you ever notice  
18 whether or not the summers were a slower time for the  
19 pastor or the associate pastor in general?
- 20 A The activities were different. Religious education classes  
21 weren't operating, the school was not in session, but there  
22 was always a come and go as well in the offices. I think  
23 that St. Bernard's, the entry, it never really slows down.

1           The meetings might be different.

2   Q    I didn't mean to cut you off. I'm sorry. Were you  
3       finished, Father?

4   A    Yes.

5   Q    Okay. You started to make what appeared to me to be a  
6       gesture and you said "entry." The entry office sort of  
7       never slows down in the summer time?

8   A    Well, there's a lot of people coming to the door.

9   Q    And you never know when someone is coming to the door?

10   A   No. You do have scheduled appointments, of course, but --

11   Q    Right?

12   A    -- it's very common to have people ring the doorbell.

13   Q    Now, are you responsible for the maintenance of records at  
14       St. Bernard's?

15   A    Yes.

16   Q    And in the normal course, although St. Bernard's is not a  
17       business, does it nonetheless keep records?

18   A    It does.

19   Q    Okay. Do those records include checking accounts?

20   A    Yes.

21   Q    And in particular, checking accounts for St. Joe's, or  
22       excuse me, St. Joseph's Cemetery?

23   A    Yes.

1 Q When you referred to Mr. Laffond being in charge of the  
2 cemetery, that's the St. Joseph's Cemetery?

3 A That's right.

4 Q Okay. And have you had any occasion to review any of the  
5 records of the parish, particularly relative to checks from  
6 St. Joseph's Cemetery?

7 A I have.

8 Q Can you tell us the approximate time periods that you  
9 reviewed checks for?

10 A From '83 to '87.

11 Q During that time period in a review of those records, did  
12 anyone assist you?

13 A I was assisted by Mr. Fred Laffond and Mrs. Lenegren  
14 (phonetic spelling).

15 Q We've already talking about Mr. Laffond. Mrs. Lenegren?

16 A She's our secretary.

17 Q Thank you. Did you bring with you today any of those  
18 checks that you may have found?

19 A I did.

20 Q Okay. Would you please bring forward any checks that have  
21 Thomas Grover's name on them?

22 (Pause)

23 A Yeah.

1 Q I'd just like to put these in order with you, if I could.  
2 Would you just help to make sure that I have these checks  
3 in chronological order, Father

4 (Pause)

5 A Yes.

6 Q Now during your search of checks for the time period 1983  
7 through 1987, did you find any checks, other than the four  
8 you have in front of you, that had Thomas Grover's name on  
9 it?

10 A We did the best we could but those are the ones we found.

11 Q Are those the type of check that would be used to pay  
12 occasional laborers or people who are on the payroll for  
13 St. Joseph's Cemetery?

14 A They would be occasional part-time, I think. I don't know,  
15 you know. I--. That would be part-time.

16 Q Sure.

17 (Pause)

18 MR. DAVIS: Your Honor, at this time I would offer into  
19 evidence these four checks, and I have no idea of the  
20 State's position but I have no objection to them being  
21 marked as G-1, 2, 3 and 4.

22 MR. REYNOLDS: Without objection.

23 THE COURT: The Court will receive them as full exhibits

1 (Four checks marked Defendant's Exhibits G-1, G-2.  
2 G-3 and G-4)

3 Q (by Mr. Davis) Father Biron, correct me if I'm wrong but  
4 the earliest chronological check here is dated what appears  
5 to be September 19, 1986, is that correct?

6 A That's right.

7 Q And the latest check appears to be what date?

8 A June 26th, '87.

9 MR. DAVIS: No further questions, your Honor.

10 THE COURT: Thank you, Attorney Davis. Attorney Reynolds.

11 CROSS-EXAMINATION

12 BY MR. REYNOLDS:

13 Q Father Biron, you indicated that you did the best you could  
14 in terms of trying to find checks with Thomas Grover's  
15 name?

16 A Mmm-Hmm.

17 Q That suggests to me, and correct me if I'm wrong, that  
18 perhaps your records are incomplete or you're not certain  
19 whether you could have seen all the checks?

20 A Well, we went through all of the checks and some might have  
21 slipped by but I don't think so. I could go through it  
22 again.

23 Q You did the best you could but you can't be certain as you

1 sit here?

2 A Oh, there's always a possibility that a check might have  
3 slipped by.

4 Q A check, or how many checks did you go through?

5 A Boxes.

6 Q Boxes and boxes?

7 A Yeah.

8 Q You're not discounting the possibility, are you, that for  
9 odd bits of work here and there people could have been paid  
10 by cash from rectory funds, small sums?

11 A That I don't know. We usually pay by check. That was--.  
12 That I don't know.

13 Q Well, you usually paid by check?

14 A Yeah. In those days, I don't know.

15 Q And is it possible that those checks that you've shown us  
16 here could be for, how do I want to put this, non work? It  
17 doesn't say here on the checks just exactly what these are  
18 for, does it?

19 A No, not indicated on the check, no.

20 Q So you're assuming this was for some sort of part-time  
21 work?

22 A That's right. I'm almost sure that was for part-time work.

23 Q Well, but you don't know, do you?

- 1 A I wasn't there in those days.
- 2 Q 1986 you weren't there?
- 3 A I signed the last check because I'd just arrived. I signed  
4 the payroll checks my first week there, didn't know.
- 5 Q Do you have any recollection of signing that check?
- 6 A No. I signed them with all the rest of the payroll checks.
- 7 Q Did you sign non payroll checks when you first arrived as  
8 well?
- 9 A Yes, I signed all the checks.
- 10 Q Okay. And you certainly would have no idea if somebody  
11 were paid for the odd bit or two of work out of even  
12 personal funds of any of the employees?
- 13 A I have no idea.
- 14 Q Now I note that the door to the southwest corner office has  
15 some blinds on it now?
- 16 A Mmm-Hmm.
- 17 Q Do you have any idea when those blinds went up?
- 18 A I don't know.
- 19 Q Those blinds were there when you came in 1987, were they  
20 not?
- 21 A It's not the type of thing that I would notice but I would  
22 say yes.
- 23 Q Okay. But you're not sure?

- 1 A No.
- 2 Q And you say it's not the kind of thing you notice so is it  
3 fair to say even in 1981 you wouldn't know if there was any  
4 kind of covering over that glass in the inside of the door  
5 or not?
- 6 A I don't remember.
- 7 Q What were Saturdays like at the rectory in terms of people  
8 coming and going back in 1981?
- 9 A I would imagine it wouldn't be any different than it would  
10 be today.
- 11 Q Well, I'm not asking you to imagine; I'm asking you what  
12 they were like in 1981 based on your recollection.
- 13 A We made appointments. Appointments, confessions at 3:00,  
14 Mass at 4:00.
- 15 Q You do confessions in the office or in the church?
- 16 A Oh, no, no, those are in the church but in the office most  
17 probably appointments on Saturdays.
- 18 Q So individual priests meeting with people, that sort of  
19 thing?
- 20 A That's right.
- 21 Q How about office staff?
- 22 A No office staff. Now Freddy he might come in on a Saturday  
23 but there's no secretary or anybody like that.

1 Q Might come in but might not?

2 A That's right.

3 Q Same thing in 1987 after you returned?

4 A That's right.

5 Q You weren't there in 1983 so you don't know what the  
6 schedules of the priests were during the week, do you?

7 A I do not.

8 Q You don't even know how many priests there were in that  
9 rectory?

10 A In 1983? Father Houle, Father Bombardier, and Father  
11 MacRae.

12 Q You are aware that during 1983, Father Houle left the  
13 premises for an extended period of time, for a month?

14 A I didn't know that.

15 Q You mentioned that if people wanted to gain admittance,  
16 people outside, say, the Church family, as it were, they'd  
17 ring for admission?

18 A That's right.

19 Q Ring the doorbell, knock on the door, that sort of thing?

20 A If they knocked on the door, nobody would hear them. They  
21 would only hear them on the first floor. But if they rang  
22 the doorbell, you would hear them throughout the house.

23 Q But that was the typical thing when someone comes to your

1           home, which is the rectory?

2    A     You ring the doorbell.

3    Q     Fair to say, if you know, that Father Bombardier in '83 was  
4           approaching retirement?

5    A     Yes.

6    Q     Taking a less active role in the activities of the rectory  
7           and the church?

8    A     That's right.

9    Q     So we've got Bombardier, Houle and MacRae who were there;  
10          Houle's gone for part of the time.

11   A     Yeah.

12   Q     And Bombardier is taking a less active role in things that  
13          are going on?

14   A     That's right.

15   Q     So the main man is Father MacRae?

16   A     That's right. Not having been stationed there but I would  
17          imagine.

18   Q     Reasonable assumption?

19   A     Yes.

20   Q     Did various priests in '81 and prior, when you were there  
21          in '87, since you've been there, did they have access to  
22          these various offices if they needed to use the space for  
23          one thing or another?

1 A A visiting priest?

2 Q No, no. A priest who was stationed there, let's say for  
3 some reason he couldn't use his own office. Could he use  
4 your office?

5 A That happens. Yes, that happens.

6 Q For counseling or whatever other purposes?

7 A That's right.

8 Q When you do counseling, pastoral counseling with  
9 individuals, is that typically a private session with an  
10 individual?

11 A Yes, it is.

12 Q You close the door?

13 A That's right.

14 Q Now I've had occasion to see you in the rectory I think a  
15 couple of times, walked through. I remember seeing your  
16 associate pastor who was seated at his desk doing a variety  
17 of work but no one was in his office at the time other than  
18 he doing work. Fair to say when--. And the reason I saw  
19 him is that the door was open.

20 A Mmm-Hmm.

21 Q He's working away.

22 A When there's nobody in the office, we usually leave the  
23 door open unless you wanted to be very quiet.

1 Q But this is not a noisy place, is it?

2 A Well, the entry office can be noisy --

3 Q Okay.

4 A -- you know, so if you're trying to work at your desk--

5 Q Okay. But it isn't all the time?

6 A That's where phones are answered and--

7 Q But it isn't all the time?

8 A No.

9 Q Comes and goes.

10 A That's right.

11 Q When you're in the office in pastoral counseling in your  
12 office, whether you're associate pastor or pastor, you have  
13 an expectation of privacy?

14 A That's right.

15 Q You're not in the habit of banging through closed doors  
16 into somebody else's office when the door is closed, are  
17 you?

18 A No.

19 Q Because things may be going on --

20 A That's right. You would not.

21 Q -- that require privacy?

22 A Usually you use the intercom phone, if you needed a priest.  
23 You would call him up on the intercom.

1 Q So you're in the habit and were in '81 and again since '87,  
2 in the habit of the door to an office of a priest closed,  
3 believing there's an expectation of privacy?

4 A That's right, and if you want to communicate with that  
5 priest, what I would do is call him up on the intercom.

6 Q Wouldn't even go to the door; you'd make a phone call?

7 A That's right. That's what I would do.

8 Q Now, you've indicated that when you had the southeast  
9 office, you never had occasion to lock that door.

10 A That's right.

11 Q So is it fair to say you don't know whether the lock is  
12 operational or not?

13 A That's right. I never locked that door.

14 Q And you never went looking for a key for it because you  
15 never had any need to lock it?

16 A That's right.

17 Q But then again, you never sexually assaulted somebody in  
18 that office, did you?

19 A No.

20 Q And so you would have no necessity for the kind of privacy  
21 that a locked door might give you if you were committing a  
22 crime in that office.

23 A I wouldn't --. No, I guess not.

1 Q So as you sit here today, you can't tell us in 1983 whether  
2 there was a key for that door or not?

3 A That's right.

4 Q Or whether anyone locked that door or not?

5 A I never locked the door but I can't tell you if there was a  
6 key for that.

7 Q Now I notice as we went throughout the building on the  
8 tour, the jury and the rest of us, there are a good many  
9 doors, older doors like that office door on the premises  
10 that have keys in the locks, skeleton key type things and  
11 many of those are functional, are they not?

12 A Yes.

13 Q Even today, 11 years after 1983.

14 A Yes.

15 Q Thanks very much.

16 A Thank you.

17 THE COURT: Attorney Davis will ask a few questions. Attorney  
18 Reynolds may respond afterwards.

19 REDIRECT EXAMINATION

20 BY MR. DAVIS:

21 Q Did you ever hear of the name of Dan Dupuis?

22 A Yes.

23 Q He was at one time a priest in the Roman Catholic Church?

1 A That's right.

2 Q Do you know--

3 MR. REYNOLDS: Your Honor, beyond the scope of examination.

4 THE COURT: I'll have to hear your offer on that, Attorney  
5 Davis.

6 MR. DAVIS: I believe there was a questioning on direct  
7 regarding who may have been there in 1983 and I believe  
8 that the jury may have heard previous evidence that in  
9 addition to those people who were asked and identified in  
10 cross-examination, that the individual I just identified  
11 may have been there in 1983 as well and it was not covered  
12 in cross-examination.

13 MR. REYNOLDS: That's exactly my point. It wasn't brought up in  
14 cross-examination.

15 MR. DAVIS: Because the cross-examination question didn't  
16 identify all of the individuals.

17 MR. REYNOLDS: It was the Father who identified the individuals.

18 MR. DAVIS: I think that it's perfectly legitimate for me to  
19 ask whether he had any knowledge as to this individual.

20 THE COURT: I'll allow the question. To me, the question is  
21 leading but I'll allow it.

22 Q (by Mr. Davis) Do you know whether or not Daniel Dupuis was  
23 ever a priest in the Roman Catholic Church?

1 A Yes, he was.

2 Q Do you know whether he was ever stationed at St. Bernard's?

3 A Yes. He succeeded me as associate pastor.

4 Q Do you know if he was there at any time in 1983?

5 A I don't know when he left. I think his stay was two years.

6 Q But you're not sure of the exact date?

7 A No. No.

8 Q Thank you.

9 MR. DAVIS: No further questions, your Honor.

10 MR. REYNOLDS: Thank you.

11 THE COURT: Thank you for testifying.

12 THE WITNESS: Thank you

13 FREDERICK R. LAFFOND

14 who was called as a witness, and having been first duly sworn,  
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DAVIS:

18 Q Will you please be seated. Would you state your name for  
19 the record and spell your last name, sir?

20 A Frederick R. Laffond, L-a-f-f-o-n-d.

21 Q I'm going to thank you because I know I don't have to ask  
22 you to speak up because I can hear you. What do you do,  
23 sir, for a living?

1 A I work for St. Bernard's parish. I'm the superintendent of  
2 St. Joseph's Cemetery.

3 Q How long have you been there?

4 A About approximately 24 years.

5 Q In the course of your duties, are you responsible for the  
6 maintenance at St. Bernard's?

7 A Yes.

8 Q And that has been true for the last 24 years?

9 A Yes, sir.

10 Q When you first came to St. Bernard's --. Strike that. I'd  
11 like you to just look at the diagram that's behind you,  
12 sir. I'd like to ask you, and for the record, that is B as  
13 in "Boy" for identification. Is that more or less an  
14 outside of the first floor of the rectory at St. B's?

15 A Yes.

16 Q Thank you. And just for one point, on the right-hand side  
17 of that diagram, it could be viewed as having two or three  
18 offices on the right-hand side. How many offices are you  
19 aware that there are?

20 A Two.

21 Q Has that been true for the entire time that you've been at  
22 St. B's?

23 A Yes, sir.

1 Q Okay. The section that's labeled "hallway" where the  
2 hallway is going up and down, you know where that hallway  
3 is, sir?

4 A Yes, sir.

5 Q Okay. When you first came to St. B's, what type of floor  
6 covering was there on that hallway?

7 A It was like a bath ceramic tile.

8 Q The same floor covering is there now or something  
9 different?

10 A No, sir. We just replaced that about two months, three  
11 months ago. As you saw, there was one foot square tiles in  
12 there.

13 Q Other than possibly during the period, other than possibly  
14 during the period of changing the tile this year, ever any  
15 period where that hallway had wood flooring on it since  
16 you've been at St. B's?

17 A No, sir.

18 Q Have you ever installed or repaired any locks in either the  
19 office that's referred to on diagram B for Id., in the  
20 southeast or southwest offices?

21 A You're talking about this office here and this office?

22 Q Yes, and just so it's clear, I'm going to refer to it, if  
23 it's all right with you, the office that's shown on the

1       lower right-hand corner as the southwest office. You may  
2       see there's an "SW"; the office above it as the southeast  
3       office. You're familiar with those offices?

4   A    Yes, sir.

5   Q    At any point, have you ever repaired or been asked to  
6       repair or install any locks on those offices?

7   A    No, sir.

8   Q    At any time have you ever been asked to produce or find any  
9       keys for those offices?

10  A    No, sir.

11  Q    If that was necessary, would that type of endeavor be  
12       within the scope of your duties?

13  A    Well, if we'd have had to change a lock or anything we  
14       could have done that.

15  Q    You know or have known Gordon MacRae?

16  A    Yes, sir.

17  Q    He's the guy sitting here?

18  A    Yeah. Quite familiar with him.

19  Q    And did Gordon ever serve in any function at St. B's?

20  A    He served as associate pastor.

21  Q    Was that during a time period in which you were the  
22       superintendent?

23  A    Yes, sir.

1 Q Did Gordon MacRae ever ask you for any keys to any offices,  
2 either the southeast or the southwest?

3 MR. REYNOLDS: Objection. Hearsay.

4 MR. DAVIS: I do not believe that it is offered for the  
5 truthfulness of the question.

6 THE COURT: We'll argue it over here.

7 CONFERENCE AT THE BENCH

8 MR. REYNOLDS: Your Honor, this is plainly being offered for the  
9 truth to determine whether or not the priest had access to  
10 the thing. To simply ask him if he has memory is simply a  
11 way to couch it in terms designed to elicit hearsay. If you  
12 want to know whether the good Father ever asked for the  
13 keys to the premises, then let him take the stand and tell  
14 us out of his own mouth. The fact is that they've made an  
15 issue as to whether or not the door is lockable to show  
16 whether or not there was access to the victim. Access to  
17 the victim has to deal with quite factually the truth of  
18 the facts asserted, whether or not there was access, and  
19 whether or not there were keys to those locks. If he wants  
20 to get that evidence in to disprove the truth of the facts  
21 asserted then he ought to do it by the direct evidence  
22 that's available to determine whether Gordon MacRae ever  
23 asked that or not and he can put the defendant on the stand

1 to do that. Otherwise, it's hearsay, plain and simple.

2 THE COURT: Yes. As far as I can see, it's not offered for  
3 its truth.

4 MR. REYNOLDS: But the jury will take it of that. I guess that's  
5 my point. I don't know any limiting instruction that can  
6 prevent them from doing that.

7 THE COURT: It's not hearsay.

8 MR. DAVIS: Did Gordon MacRae ever ask for a key.

9 THE COURT: It's just testimony as to this witness's  
10 observations. It's not hearsay.

11 MR. DAVIS: Thank you, your Honor

12 (Conclusion of Conference at the Bench)

13 Q (by Mr. Davis) Mr. Laffond, do you ever remember Mr. MacRae  
14 ever asking you for a key to either the southeast or  
15 southwest office?

16 A No, sir, not to my memory.

17 Q During the time that you've served as the superintendent at  
18 St. B's, do you ever have any memory of a couch ever being  
19 in the southeast office?

20 A No, sir.

21 Q Is there any place in the rectory that you currently use as  
22 an office?

23 A Yes, sir.

1 Q Which one is that, sir?

2 A It's the one in the southwest, number 1.

3 Q The door that separates on diagram B for identification  
4 between the southwest office and what is referred to as the  
5 entry office, are you familiar with that door that  
6 separates them, sir?

7 A Yes, sir.

8 Q Do you know whether or not that door has glass in it?

9 A That door does not have glass in it.

10 Q Okay. That's the door that separates the southwest office  
11 from the entry office?

12 MR. REYNOLDS: Objection. Asked and answered, I believe.

13 THE COURT: The objection is overruled.

14 MR. DAVIS: Thank you, your Honor.

15 Q Would you, just so it's clear, point to the door that you  
16 think I'm asking about?

17 A This door here.

18 Q Okay.

19 A The door out.

20 Q All right. Is there another door in that office?

21 A Right here. That's the one that has the glass.

22 Q Okay. Is that a door or a window, sir?

23 A Right here?

- 1 Q Yes.
- 2 A This would be the door I would take to my office. The  
3 window is here.
- 4 Q Is there a way to enter the southwest office from the  
5 reception area?
- 6 A You'd have to go coming into the main office right here.  
7 You then go out through this door and you'd have to come  
8 through my office and then out.
- 9 Q To get into the reception area?
- 10 A The reception area is right here.
- 11 Q Okay. On the diagram, do you see an area that says "entry  
12 office"?
- 13 A Right, the main office right here.
- 14 Q You say the main office. Is that where the pastors work or  
15 someone else?
- 16 A No, that's where the secretary resides, right here.
- 17 Q From there is there a way to get in your office?
- 18 A Yes, right through that door. There's the glass.
- 19 Q Thank you. You said that door that has glass?
- 20 A Yes, sir.
- 21 Q By the way, you didn't draw that diagram, did you?
- 22 A No, sir.
- 23 Q During the time that you've been at St. B's, has or has not

1           that door always had glass in it?

2   A       Yes, sir.

3   Q       So it has always had glass.

4   A       Yes, sir.

5   Q       And is that the type of glass that you could see through or  
6           is it frosted?

7   A       No, you can see through it.

8   Q       Are there currently any blinds on the door that covers the  
9           glass?

10  A       Yes, sir, there's miniblinds that I installed.

11  Q       You installed them?

12  A       Yes, sir, when I took the office over.

13  Q       Did you take the office over before or after Mr. MacRae was  
14          at St. B's?

15  A       After.

16  Q       So at the time that Mr. MacRae was there, the miniblinds  
17          were not on the door?

18  A       That's correct.

19  Q       Do you remember whether or not you had occasion to assist  
20          Father Biron in going through any checks of the St. Joe's  
21          Cemetery?

22  A       Yes, sir.

23  Q       And when you did that, did you or did you not attempt to do

1           it carefully?

2   A    Yes, sir.

3   Q    And when you did that, were you attempting to find any  
4        checks that had Thomas Grover's name on it?

5   A    That's right.

6   Q    I'd like to show you, sir, four checks just for your  
7        purposes. So you understand the way we do this, the first  
8        check is marked as G as in "George" 1. That has Tom  
9        Grover's name on it, correct?

10   A   Yes, sir.

11   Q    G-2, Thomas Grover?

12   A    Yes, sir.

13   Q    And if you just check G-3 and G-4 to make sure that was  
14        correct as well?

15   A    Yes, sir. And that one, sir.

16   Q    Other than these four checks, were you aware of any other  
17        check that had Thomas Grover's name on it that you all  
18        found?

19   A    No.

20   Q    Do you remember whether or not in '86 and '87, whether or  
21        not Thomas Grover ever worked with you or for you as part  
22        of the St. Joe's Cemetery crew?

23   A    Yes, sir. There's one check there was made out from the

1 cemetery department.

2 Q Okay. Do you know whether or not the lock to the southeast  
3 and the southwest--. Excuse me. English is a second  
4 language. Do you know whether or not the locks to the  
5 southeast or the southwest office work?

6 A I've never used them, to my knowledge.

7 Q And when painting is done at the rectory, you do it or  
8 supervise it or inspect it being done?

9 A That's right.

10 Q And do you know whether or not the locks are just painted  
11 over in those two offices?

12 A I believe they are.

13 Q Do you remember the year that you installed the miniblinds?

14 A I think that was installed in a couple of days. I have to  
15 ask my secretary. I think it was about four to five years  
16 ago.

17 Q You're not sure of the exact date?

18 A No, I can't verify that.

19 MR. DAVIS: No further questions, your Honor.

20 THE COURT: Thank you, Attorney Davis. Attorney Reynolds.

21 CROSS-EXAMINATION

22 BY MR. REYNOLDS:

23 Q On September 14th, you had a conversation with Captain

1 Clark of the Keene P.D.

2 A I had a conversation. I don't know what the date was.

3 Q But fairly recently?

4 A Right. Right.

5 Q And he asked you about those blinds, didn't he?

6 A Yes, sir.

7 Q At the time, you indicated that you thought you'd installed  
8 those about seven and a half years ago, not four or four  
9 and a half years ago?

10 A Well, that's why I didn't want to, you know--. I don't  
11 really--. Because I asked my secretary. I have no clue  
12 when they were installed so, you know, that's why I didn't  
13 want to really commit. I don't know if it was seven years  
14 ago, I don't know if it was four years ago. All I can tell  
15 you is that I installed them.

16 Q It could have been ten years ago?

17 A No, I don't think it would have gone back that far.

18 Q Well, you're off by three years.

19 A The thing I can--. You know, if we're getting technical  
20 I'd have to get a receipt someplace along the line. I  
21 cannot, you know, confine to that so for, I guess, for the  
22 benefit of here, I have no clue when they were put up. I  
23 guess that would clear the air.

1 Q Now, is it fair to say that you now use with some  
2 regularity the southwest office?

3 A That's right.

4 Q Was the southeast office ever an office that you used?

5 A No, sir.

6 Q So you were never in a position to go in there and lock the  
7 door.

8 A No, sir.

9 Q Eleven years ago, you don't know if that lock on the  
10 southeast door was painted over or not, do you?

11 A Really, the best of my knowledge, I couldn't testify to  
12 that.

13 Q And is it fair to say you don't have a recollection of  
14 whether or not Father MacRae ever asked you for a key?

15 A The only thing I can tell you, the way my mind serves me  
16 right now, I have no recollection of that.

17 Q So he may have asked you, may not have?

18 A I just don't have a recollection. I couldn't go either  
19 way.

20 Q Okay. Whoever served in that rectory throughout the time  
21 you've been there pretty well have access to the whole  
22 building, don't they?

23 A Yes, sir.

1 Q And do you know whether or not sometimes they use one  
2 another's offices for short periods?

3 A I don't know. I really never got going--. I pretty much  
4 stick to my own business.

5 Q Okay. Fair enough, Mr. Laffond. If a priest wanted to go  
6 into that southwest office and use that for a short period,  
7 an hour or two when no one else is in there, he could do  
8 that, couldn't he?

9 A I think so. That's something that they deal with in among  
10 themselves.

11 Q And certainly could have done that 11, 12 years ago?

12 A Could have been if they made, you know, arrangements among  
13 themselves. That's their own territory. I mean, it's  
14 their home, it's their--. You know, I have my little niche  
15 there and that's where I operate out of.

16 Q You're not in a position to tell a priest, though, that he  
17 can't use that office for a brief period, are you?

18 A No. That's their home. They control it as they see fit.

19 Q Now, is it fair to say that you have no independent  
20 recollection of when Gordon MacRae served at St. Bernard's  
21 parish?

22 A Well, if you wanted the years, I think you'd have to go to  
23 the Diocese in Manchester and they could tell you precisely

1           when he arrived and when he left.

2   Q     But you don't know that?

3   A     Well, I know he was there. To put the exact date, I didn't  
4           really research that.

5   Q     Okay. Well, when you were queried by I believe it was  
6           Officer Clark, I think you were forthcoming and said you  
7           couldn't put a year to it.

8   A     I couldn't. I can't tell you he was there.

9   Q     Fair enough.

10  MR. REYNOLDS: If I may have just a moment, please, your Honor?

11  THE COURT:     Yes, you may.

12                               (Pause)

13  Q     (by Mr. Reynolds) Matter of fact, you pretty well stayed  
14           clear of Father MacRae during the time he was there, isn't  
15           that right?

16  A     Yes. I think I stated that. We really didn't have  
17           anything in common, you know. We didn't have the same  
18           interests or the same friends so I just kind of did my  
19           thing and he did his.

20  Q     I think you indicated that in all the time that he was  
21           there, you had about a total of two hours contact with him?

22  A     Yeah. That was brought back but I think it was kind of  
23           misconception at the time when it was, you know, talked

1       about. You know, over the period of four years they stated,  
2       you know, probably spent more time there but it was at a  
3       very minimal. You know, if I had to do anything, you know,  
4       he wanted to know something, we'd spend time together, but  
5       other than that, he went his way, I went mine and like I  
6       said, we had different interests, different friends and it  
7       was a different ball game altogether.

8   Q     So you didn't know what his day-to-day schedule was?

9   A     No. No, I had no clue.

10  Q     Thanks very much.

11  THE COURT:     Thank you, Attorney Reynolds. Attorney Davis?

12                               REDIRECT EXAMINATION

13  BY MR. DAVIS:

14  Q     The glass door that separates what is now your office,  
15       which we've heard was the southwest office, and the  
16       reception area, who put the shades up? Excuse me, who put  
17       the miniblinds up?

18  A     I did.

19  MR. REYNOLDS: Asked and answered, your Honor.

20  THE COURT:     Too late. The objection is overruled.

21  Q     Did you put those up?

22  A     Yes, sir.

23  Q     After you moved into that office?

1 A Yes, sir.

2 Q You moved into that office after Gordon MacRae left St.  
3 Bernard's?

4 MR. REYNOLDS: Your Honor, this is beyond the scope of my  
5 cross-examination.

6 THE COURT: It is, and it is asked and answered.

7 MR. DAVIS: Your Honor, perhaps I was wrong. I thought that  
8 he specifically went into when did these things happen.  
9 I'm trying to elucidate the point that he may not know the  
10 calendar dates but he knows the sequential dates.

11 THE COURT: Oh. I'll allow the question.

12 Q You don't know the years any of the priests were at St.  
13 B's, is that correct?

14 A Not to get precise for the court records.

15 Q Did you move into the office that has been labeled as the  
16 southwest office after Gordon MacRae left St. B's?

17 A No, it was before.

18 Q Okay. And after you moved in, you put up the miniblinds?

19 A It was a short period there right after. About I'd say  
20 probably maybe a month or two after I moved in there, I put  
21 those up.

22 Q And you moved into the southwest office, Mr. MacRae had an  
23 office at the rectory?

1 A Yes, sir.

2 Q What was his office?

3 A It would be the southeast office.

4 Q That's the upper right office?

5 A Right.

6 MR. DAVIS: No further questions, your Honor

7 RECROSS-EXAMINATION

8 BY MR. REYNOLDS:

9 Q Until you moved into that office about--. It was about  
10 seven, seven and a half years ago?

11 A Yes, somewhere around there.

12 Q You did most of your work outside the premises, isn't that  
13 right?

14 A Yes. I had an office downstairs before that time.

15 Q Down the basement?

16 A Right.

17 Q I think that's used as an accounting room now?

18 A Right.

19 Q And so you had no control how those offices were used  
20 upstairs?

21 A No, sir. You know--.

22 Q As a matter of fact, as you think back to 1983, there could  
23 have been some covering on that glass door of that office

1 at that time, couldn't there?

2 A I think there was something brought about that, I really  
3 can't clearly define that.

4 Q So it's four years later when you move in that you put the  
5 blinds up.

6 A When we're talking about four years later from when?

7 Q Four years after '83.

8 A When I moved in was actually when Father Scruton came so if  
9 you have the timetable on that, it was roughly thereafter  
10 that when I made the move.

11 Q Okay. What kind of covering was on that window in 1983?

12 A I really--. I really couldn't clearly tell you.

13 Q But you have a recollection of some covering on that window  
14 in earlier years before you moved into the office?

15 A Yeah. Father Bombardier and Father Dupuis had that office  
16 prior to that. I mean, way back.

17 Q So the answer to my question is yes, you recall there was  
18 some covering on that window?

19 A Could have been a sheer or something like that. I can't  
20 recollect so I really couldn't, to be honest, and put it in  
21 and testify. I couldn't really testify to that.

22 Q So that was an office that was used by priests back several  
23 years before you took it over?

1 A Right, right. Father Dupuis used that office, Father  
2 Bombardier used that office.

3 Q And when priests use those offices from time to time, they  
4 require privacy?

5 A Yes, they require privacy. You went in, you know, they  
6 shut the door.

7 Q And it would be reasonable to conclude that there may have  
8 been some sort of covering to allow them to have more  
9 privacy back years ago when they used that office.

10 MR. DAVIS: Object. Argumentative.

11 A I couldn't testify to that.

12 THE COURT: Overruled.

13 Q So you're not sure whether there was a covering or not.

14 A No. Like I stated earlier, I could not testify if there  
15 was covering on there or not.

16 Q Thank you very much.

17 MR. DAVIS: No further questions, your Honor.

18 THE COURT: Thank you. Thank you for your testimony.

19 THE WITNESS: Thank you.  
20  
21  
22  
23

1

DENNIS HORAN

2

who was called as a witness, and having been first duly sworn,  
3 was examined and testified as follows:

4

DIRECT EXAMINATION

5

BY MR. DAVIS:

6

Q Will you please be seated. State your name and spell your  
7 last name for the record. And I'm going to ask you to  
8 speak loud enough for me to hear you back here, and the  
9 acoustics in this room are awful.

10

A All right. My name is Dennis Horan, H-o-r-a-n.

11

Q How are you employed, sir?

12

A I'm a Catholic priest. I'm now living in Nashua, New  
13 Hampshire, the Immaculate Conception Church.

14

Q And how long have you been at the Immaculate Conception?

15

A Ten years. From 1984 to 1994, ten years.

16

Q Before that, sir, where were you stationed, or where was  
17 your rectory of service?

18

A I was in Marlborough, New Hampshire prior to Nashua from  
19 1976 to '84.

20

Q What's the name of the church or the rectory at  
21 Marlborough, sir?

22

A Sacred Heart.

23

Q Were you the so-called pastor at Sacred Heart?

1 A Yes.

2 Q During the time that you were the pastor at Sacred Heart,  
3 did you ever have any associate pastors?

4 A It's a very small parish. I had three little parishes. I  
5 had Dublin and Harrisville and Marlborough. Marlborough  
6 was where I lived but in all, probably about 200 families  
7 in the three parishes.

8 Q You had all three parishes at the same time?

9 A I had all three, that's right.

10 Q And the place that you actually lived, the rectory was in  
11 Marlborough?

12 A In Marlborough.

13 Q During the time --. Strike that. Did you have any  
14 occasion to know a family by the name of Grover?

15 A Yes.

16 Q Do you remember whether or not the Grovers attended Sacred  
17 Heart?

18 A Yes.

19 Q Do you know whether or not one of the Grover's children was  
20 named Thomas?

21 A Yes.

22 Q During the time that you were at Sacred Heart, did you have  
23 any knowledge of Thomas Grover having any counseling with a

1 priest at Sacred Heart?

2 A No.

3 Q During the time that you were at Sacred Heart, were there  
4 ever any occasions where members of the church family were  
5 invited in for donuts?

6 A I can tell you what we had. We had what was called coffee  
7 and donuts after Mass and after the Mass in order to get  
8 the people to be social or to get to know each other, in  
9 the summertime we had a porch and we had the coffee out  
10 there, we had donuts there, people would go over to town  
11 and pick up donuts and so after Mass people were invited to  
12 have coffee and donuts.

13 Q Fellowship time?

14 A Fellowship.

15 Q For the entire church body?

16 A Exactly.

17 Q And friends and visitors?

18 A That's right.

19 Q Do you have any memory of inviting Thomas Grover alone to  
20 come in for donuts or just--

21 A Never. I have no memory of that at all.

22 Q Do you remember who Pat Grover was?

23 A Yes.

1 Q And who was she?

2 A The mother of Thomas.

3 Q Did she have any involvement at Sacred Heart?

4 A Yes. She was very involved in the town and very involved  
5 in the parish.

6 Q Do you remember whether or not she had any occasion to be  
7 the so-called religious ed. teacher?

8 A Right, she was.

9 Q When she served as the religious ed. teacher from time to  
10 time, were those classes ever taught in the Sacred Heart  
11 rectory?

12 A Right.

13 Q Did she or did she not ever have Tom with her in the  
14 rectory whenever she would teach those classes?

15 A The class--. Her class, I suppose she had the older boy  
16 and also Thomas because we didn't have any classrooms  
17 actually. It was actually rooms that we made available and  
18 small little groups in that room and Pat used one of the  
19 rooms to teach.

20 Q In the rectory?

21 A In the rectory.

22 MR. DAVIS: No further questions, your Honor.

23 THE COURT: Thank you, Attorney Davis.

1 MR. KOCH: Your Honor, may I have permission to step in and  
2 out? Because I don't have a witness coordinator here and I  
3 need to--

4 THE COURT: Sure, that's fine.

5 MR. KOCH: Thank you.

6 CROSS-EXAMINATION

7 BY MR. REYNOLDS:

8 Q Father Horan, you indicated you supposed Pat Grover had Tom  
9 in classes in the rectory?

10 A She had the upper class. The--. I would imagine, I'm only  
11 supposing, but she had the upper class. She was a very  
12 good teacher. She could handle older children and really  
13 do very well with them.

14 Q So you have no recollection whether Tom was in there for  
15 those classes?

16 A No. I couldn't picture him in there but I would imagine he  
17 would be.

18 Q All the Grover boys had paper routes to the rectory, did  
19 they not?

20 A I can remember the young boy Jon coming, having a paper  
21 route, but again, a lot of my memory is faint in regard to  
22 that.

23 Q Well, do you recall that you communicated with your lawyer,

1        Joseph Kerrigan back in November of 1993 that you believed  
2        all of the Grover boys delivered newspapers to the rectory?

3        A    I could have said that but it was, again, supposed, you  
4        know. If they handed it down from one to the other as many  
5        times families do that, when they give it up, they grow too  
6        old, they turn in on to the next younger brother to take  
7        over so this is kind of a suppose thing.

8        Q    When Gordon MacRae was an intern at your parish in  
9        Marlborough in the summer of 1979, he was able to come and  
10       go throughout the rectory, was he not?

11       A    Yes.

12       Q    And if he wished to have days off for a short period of  
13       time, he could?

14       A    Not really. He was only there six weeks, six weeks, and  
15       the whole thing for the Diocese was to give him experience  
16       in parish life while he was in the seminary. Like as you  
17       use the word, internship. The parish being very small and  
18       religious education programs shut down, most of Gordon's  
19       work during the six weeks was down in Dublin working with  
20       some others fixing up the church which was needed badly.  
21       There was leaks in the roof and things like that and that's  
22       where Gordon was working for the six weeks mostly but he  
23       did live in the rectory, yes.

- 1 Q You're saying to me he couldn't have a guest in there for a  
2 half an hour sometime during the entire summer he was  
3 there?
- 4 A Oh, I imagine, yes.
- 5 Q Or more than once, if he wanted to meet someone?
- 6 A Right, right.
- 7 Q 15, 20 minutes, half hour?
- 8 A Right.
- 9 Q An hour perhaps?
- 10 A Probably.
- 11 Q So he could come and go and people that he knew could come  
12 and go to meet him there from time to time?
- 13 A Well, it depends on how you come and go because I'm for the  
14 most part always there, was always there around somewhere.
- 15 Q You were around but you could be over in the church?
- 16 A Right.
- 17 Q You could be at the church in Harrisville?
- 18 A Right.
- 19 Q You could be at the church in Dublin?
- 20 A Right.
- 21 Q And so you and Gordon MacRae were not together the entire  
22 summer?
- 23 A Well, but he was brand new in the community and his work

1           mostly was done working down there in Dublin on the church.

2   Q       Well--

3   A       A possibility of his having a person in to speak or  
4           whatever was possible.

5   Q       Are you aware that Mr. MacRae spent a lot of time with the  
6           Grover family when he was not at the church?

7   A       I am I was aware of that, yes.

8   Q       Almost kind of a second son or an 11th son, I guess you  
9           would say?

10   A       Well, you know, it was six weeks and he became friendly  
11           with the family. He would go up there at night for super  
12           or otherwise because it was a family affair and he did  
13           become friendly with the family, with Pat and Bud, that was  
14           her husband's name, and the children.

15   Q       Thanks very much, Father.

16   A       Okay.

17   MR. DAVIS:     No further questions, your Honor.

18   THE COURT:     Thank you very much for your testimony.

19   THE WITNESS:   Thank you.

20   THE COURT:     Well, why don't you take the jury. We'll take ten  
21           minutes now.

22   MR. DAVIS:     Thank you, your Honor.

23                               (Recess taken)

\* \* \* \* \*

1  
2 MR. DAVIS: Your Honor, with your permission.

3 THE COURT: Attorney Davis.

4 MR. DAVIS: I call Debby Koronis to the stand, please

5 DEBORAH KARONIS

6 who was called as a witness, and having been first duly sworn,  
7 was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. DAVIS:

10 Q Would you please sit down. State your name for the record,  
11 spelling your last name. And I'm going to ask you to speak  
12 a little bit louder than you did a minute ago so we can all  
13 hear you.

14 A My name is Deborah Koronis, K-a-r-o-n-i-s.

15 Q Where do you live, Miss Karonis?

16 A 31 Madison Street, Lynn, Massachusetts.

17 Q How long have you lived in Lynn?

18 A All my life.

19 Q Gordon MacRae your brother?

20 A Yes, he is.

21 Q Did you ever have any occasion to see or visit Gordon in  
22 Keene when he first came to St. B's?

23 A Yes.

1 Q Do you know what or why any of those occasions were, why  
2 you were there?

3 A One particular stands out in my mind was the day my two  
4 daughters were baptized.

5 Q And who performed the baptism service?

6 A Gordon.

7 Q Where was that?

8 A At St. Bernard's parish.

9 Q And do you know the date of the baptism?

10 A July 24th, 1983.

11 Q Do you have anything that helps you or in any way assists  
12 you in remembering that day?

13 A I have copies of the baptismal certificates.

14 Q You have those with you today?

15 A Yes, I do.

16 Q Can I see them for one second, please.

17 (Pause)

18 Q (Continuing) Melanie?

19 A Melanie.

20 Q And Kelly?

21 A That's right.

22 Q And these are both their baptismal certificates?

23 A Yes.

- 1 Q Now, what was that date again?
- 2 A July 24th, 1983.
- 3 Q Did you have occasion that day to be in the rectory as well
- 4 as the church?
- 5 A Yes.
- 6 Q Did you have the occasion to see where Gordon was living in
- 7 the rectory at that point?
- 8 A I did not, no. My husband did.
- 9 Q Did you have other occasions that summer to visit with
- 10 Gordon?
- 11 A Yes.
- 12 Q In Keene?
- 13 A Yes.
- 14 Q At the rectory?
- 15 A Yes.
- 16 Q Any other children in your family, ma'am? Excuse me.
- 17 Which family, right?
- 18 A Yeah.
- 19 Q You and Gordon have any other brothers or sisters?
- 20 A We have two brothers.
- 21 Q Their names?
- 22 A Mark and Scott.
- 23 Q Everyone grow up together?

- 1 A Yes.
- 2 Q Obviously there's some differences in ages but you all had  
3 the same household?
- 4 A Yes, we did.
- 5 Q Do you know from your memory of growing up as a child and  
6 also from the occasion to be with your brothers whether any  
7 of your brothers liked rock music?
- 8 A Two did, yes.
- 9 Q Who likes rock music in your family?
- 10 A My older brother Mark and my younger brother Scott.
- 11 Q From your memory, were there ever any occasions where there  
12 was a disagreement in the family about what kind of music  
13 to listen to?
- 14 A Often.
- 15 Q Did Gordon take part in those disagreements?
- 16 A He was very active in the disagreements, yes.
- 17 Q He was favoring or not favoring listening to rock music?
- 18 A Not.
- 19 Q Do you ever remember any --. Strike that. You've heard  
20 the name Tom Grover before?
- 21 A Yes.
- 22 Q Do you know that this case involves allegations that your  
23 brother sexually molested Tom Grover?

- 1 A Yes.
- 2 Q Did you ever have the occasion to see or meet Tom Grover?
- 3 A Yes.
- 4 Q Where?
- 5 A In my mother's home.
- 6 Q And where was your mother's home?
- 7 A 121 Empire Street, about four blocks from my home.
- 8 Q In Lynn?
- 9 A In Lynn, yes. I'm sorry.
- 10 Q Was Thomas Grover with him?
- 11 A With Gordon.
- 12 Q How many times have you seen or met Tom Grover?
- 13 A Once.
- 14 Q Was anyone else there besides Thomas Grover and Gordon?
- 15 A Yes.
- 16 Q Whom?
- 17 A My mother, my younger brother, my husband, and my daughter.
- 18 Q Do you remember how long they were at your mother's house?
- 19 Excuse me. I could ask an intelligent question if I worked
- 20 at it. Do you remember how long Gordon and Thomas Grover
- 21 were at your mother's house?
- 22 A Probably 40 to 50 minutes, maybe.
- 23 Q Anything going on at the time?

1 A We were getting ready to have dinner.

2 Q Other than that one time, have you ever seen Thomas Grover?

3 A No, I haven't.

4 MR. DAVIS: No further questions, your Honor.

5 THE COURT: Thank you, Attorney Davis. Attorney Reynolds?

6 MR. REYNOLDS: Thank you.

7 THE COURT: Thank you for your testimony

8 JOHN KARONIS

9 who was called as a witness, and having been first duly sworn,  
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. DAVIS:

13 Q Would you please take a seat. State your name nice and  
14 loud and spell your last name for the record, sir.

15 A Jon Karonis, K-a-r-o-n-i-s.

16 Q Where do you live, Mr. Karonis?

17 A Lynn, Massachusetts.

18 Q How long have you lived there?

19 A 15 years.

20 Q You're married to Debbie?

21 A Yes, sir.

22 Q And that means Gordon MacRae is your brother-in-law?

23 A Yes, sir.

1 Q What do you do for a living, sir?

2 A I'm the fire chief for the General Electric Company, Lynn,  
3 Mass.

4 Q Have you ever had --. Strike that. How long have you and  
5 Debbie been married?

6 A 15 years.

7 Q Have you known Gordon that entire time period?

8 A 18 years.

9 Q So you knew him before you and Debbie were married?

10 A Yes, sir.

11 Q You and Gordon have had a few or a lot of opportunities to  
12 be together?

13 A A lot.

14 Q Social settings?

15 A Yes.

16 Q During that time, have you had occasion to hear music that  
17 Gordon has selected to listen to or play?

18 A Yes, sir.

19 Q And during those times, do you ever remember Gordon  
20 choosing to play or listen to rock music or loud music?

21 A No, sir.

22 Q Did you ever have any occasion to visit Gordon at any time  
23 whenever he was at St. Bernard's rectory in Keene?

- 1 A Yes, sir.
- 2 Q Were you present for the baptism of your daughters?
- 3 A Yes, sir.
- 4 Q And where was that?
- 5 A It was in the church, St. Bernard's.
- 6 Q Do you remember if you ever had any occasion that summer  
7 when the baptism took place to see where Gordon was living  
8 in the rectory?
- 9 A Yes.
- 10 Q And did you have any occasion to help him move anything --
- 11 A Yes.
- 12 Q -- from one floor to another or what?
- 13 A Yes. He moved from the second to the third floor.
- 14 Q Was that the day of the baptism or some later date, or do  
15 you remember?
- 16 A I don't recall.
- 17 Q Do you remember whether, when you visited at the baptism  
18 ceremony, whether or not you wanted to be able to stay in  
19 the rectory at any future visits?
- 20 A It never entered my mind.
- 21 Q Do you remember if you all ever spent the night at the  
22 rectory?
- 23 A Yes, we did.

- 1 Q Was that after the baptism?
- 2 A Yes. Well--
- 3 Q No, no. Let me clear it up. After the baptism, could be
- 4 that day or any time. Was it the day or the week even,
- 5 whenever the baptism was, or some separate journey or trip?
- 6 A It was separate after that.
- 7 Q Do you remember what season of the year that was in 1983?
- 8 A Probably in the fall.
- 9 Q Have you ever heard of someone by the name of Father Moe?
- 10 A Yes, sir.
- 11 Q How did you meet him?
- 12 A Through Gordon.
- 13 Q Will you describe to us what Father Moe looks like?
- 14 A A gentleman about five eight, full beard, glasses, dark
- 15 hair.
- 16 Q Do you ever remember whether there was any occasion for you
- 17 to see Father Moe and Gordon together in either 1986 or
- 18 1987?
- 19 A Yes. Father Moe dropped Gordon off at our house on their
- 20 way back from vacation.
- 21 Q Do you know where they had been vacationing?
- 22 A In Maine.
- 23 Q Do you remember the exact year?

- 1 A No, sir, I don't.
- 2 Q Do you know the approximate time frame?
- 3 A It was in the summer of '86 or '87.
- 4 Q One year or the other, but you're not sure which?
- 5 A No, I'm not.
- 6 Q Do you remember whether Gordon had anything with him other  
7 than his bags?
- 8 A He had brought things for the kids.
- 9 Q Do you remember whether he had anything for himself?
- 10 A Yes.
- 11 Q What was that?
- 12 A That was a chess set.
- 13 Q Do you remember whether or not there was anything  
14 distinctive about the chess set or any way that you can  
15 picture it in your own mind?
- 16 A It was fancy, a heavy chess set. It wasn't wooden.
- 17 Q Do you know if it was made out of marble or stone?
- 18 A Possibly.
- 19 Q And he had that with him when Father Moe dropped him off  
20 after they'd vacationed in Maine?
- 21 A That's correct.
- 22 Q Have you ever met Thomas Grover?
- 23 A Once.

1 Q Where?

2 A At my mother-in-law's home.

3 Q Where was that?

4 A That was in Lynn, Mass.

5 Q Other than that one occasion, you've never seen Thomas  
6 Grover?

7 A No, sir.

8 MR. DAVIS: No further questions, your Honor.

9 THE COURT: Thank you, Attorney Davis. Attorney Reynolds.

10 CROSS-EXAMINATION

11 BY MR. REYNOLDS:

12 Q When Gordon MacRae was in Keene in the company, privately  
13 in the company of teenagers, you didn't know what kind of  
14 music he was playing, do you?

15 A No, sir.

16 Q Thank very much.

17 THE COURT: Thank you for your testimony.

18 MAURICE J. ROCHEFORT

19 who was called as a witness, and having been first duly sworn,  
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. DAVIS:

23 Q Just watch your step there. Would you please be seated.

1           Would you please state your name for the record, spell your  
2           last name, and speak loudly enough for me to be able to  
3           hear you?

4   A     Maurice J. Rochefort, R-o-c-h-e-f-o-r-t.

5   Q     Give me the last name again?

6   A     Rochefort.

7   Q     I'm going to apologize ahead of time.

8   A     All right.

9   Q     How are you employed, sir?

10  A     I am a Roman Catholic priest. I'm pastor of St. Michael's  
11       in Exeter, New Hampshire.

12  Q     And how long have you been a priest, sir?

13  A     28 years.

14  Q     In the course of being a priest, did you ever have any  
15       occasion to have a professional meeting or relationship  
16       with Gordon MacRae?

17  A     Yes.

18  Q     What was that, sir?

19  A     In 1981, I was pastor of St. Francis Xavier parish in  
20       Groveton and Sacred Heart parish in North Stratford, and  
21       Gordon as a deacon was assigned to me for the summer and  
22       then later from January through May of 1982, he was also  
23       assigned as a deacon.

1 Q Just so I have those dates--

2 A Yes.

3 Q I ask a favor, sir.

4 A Yes.

5 Q Would you take this marker, flip until we have a clean page  
6 on the pad.

7 THE COURT: I'll tell you, this thing is --.

8 THE WITNESS: Okay. Thank you. Yes.

9 Q Father, I'm going to call you Father Moe.

10 A Yes.

11 Q Is that okay, if I call you that?

12 A Yes, certainly.

13 Q Okay. Father Moe, what were the dates again?

14 A (Writing on pad) June through August, 1981 and June through  
15 May, 1982.

16 Q Now, did you go that first--. You may be seated, sir.

17 Thank you.

18 A Thank you.

19 Q During that first time period, was Mr. MacRae a priest in  
20 the Catholic Church?

21 A No, he was an ordained deacon.

22 Q During the second period, January through May of 1992, was  
23 he an ordained priest?

1 A 1982, no, he was not. He was an ordained deacon.

2 Q His ordination as a priest occurred after May of 1982?

3 A June 5th or 6th of 1982.

4 Q You were the--. What role did you have at the Groveton  
5 rectory?

6 A I was pastor.

7 Q And Gordon was assigned to assist you?

8 A Correct.

9 Q During that time, did you and Gordon become friends?

10 A We did.

11 Q Where is Groveton?

12 A Grove--

13 Q I know it's New Hampshire but where in New Hampshire?

14 A Groveton is northern New Hampshire. To situate it, and a  
15 lot of people are familiar with Lancaster, Groveton,  
16 Colbrook.

17 Q Way up that way?

18 A Northern New Hampshire on the Connecticut River, yes.

19 Q All right. And Gordon was stationed there June through  
20 August of '81 and then January through May of '82?

21 A Correct.

22 Q Do you know where Gordon served after he became a priest in  
23 1982?

- 1 A Yes. He was assigned for one month to St. Francis and  
2 Sacred Heart parishes in Groveton and North Stratford while  
3 I was away at summer school and then he was assigned to Our  
4 Lady of the Miraculous Medal in Hampton, New Hampshire, and  
5 then after that was transferred to St. Bernard's in Keene.
- 6 Q At the time that he was at Hampton --
- 7 A Yes.
- 8 Q -- do you have personal knowledge that that was a busy time  
9 at the Hampton rectory or parish, I should say?
- 10 A Yes. Yes.
- 11 Q Any type of unusual event taking place?
- 12 A Yes.
- 13 Q Have something to do with a church school, if you remember?
- 14 A Correct.
- 15 Q And there was a dispute between whom, if you know?
- 16 A Yes. There was a dispute between four sisters who were  
17 employed at the school and the Diocese of Manchester.
- 18 Q Are you aware of whether or not this caused some extended  
19 brouhaha in the parish and in the school?
- 20 A Certainly, I think from personal knowledge and from the  
21 press. It was very evident in the press.
- 22 Q Did you and Gordon MacRae ever vacation together?
- 23 A We did.

1 Q Do you remember whether or not you had an occasion to  
2 vacation with Mr. MacRae in 1986?

3 A We did, yes.

4 Q Where did you go, sir?

5 A Bar Harbor, Maine.

6 Q And do you remember whether or not Mr. MacRae made any  
7 purchases during that vacation?

8 A I'm sure he did.

9 Q Was there anything in particular you remember him  
10 purchasing?

11 A I believe that was the year that he purchased a chess set.

12 Q Do you remember anything distinctive, if anything, about  
13 the chess set?

14 A It was an, it looked like marble. It may have been stone  
15 but it was a marble--. We always referred to it as a  
16 marble chess set.

17 Q Now, during the time --. And that was 1986?

18 A I believe so.

19 Q Do you keep any kind of calendars or other type of diaries  
20 that shows where you go at different times of the year?

21 A I do.

22 Q And do you have your calendar, your diary or calendar for  
23 1986?

- 1 A I do.
- 2 Q And you've been able to see that. Did you go on vacation  
3 at that time?
- 4 A Correct.
- 5 Q Doesn't specifically say that Gordon was with you, does it?
- 6 A It does not.
- 7 Q But you remember Gordon being with you?
- 8 A Yes.
- 9 Q Do you remember where you stayed or what the type of place  
10 it was you stayed in Bar Harbor?
- 11 A I do.
- 12 Q And what was that?
- 13 A It was owned by a small motel-cottage place but it was a  
14 trailer mobile home, two-bedroom trailer mobile home that  
15 was rented out.
- 16 Q And the two of you rented it?
- 17 A Correct.
- 18 Q Did anyone else vacation with you?
- 19 A Not with us but there were some friends who were on  
20 vacation at the same time and they were in another part of  
21 the island at that time.
- 22 Q Do you remember if you were the one who was driving?
- 23 A I'm sure I was, yes.

1 Q Do you remember whether or not you and Gordon vacationed  
2 together the next year?

3 A I don't remember specifically but I think we did because we  
4 did vacation most summers together.

5 Q Do you remember whether there was ever occasion when Gordon  
6 and you vacationed in Bar Harbor again?

7 A I know we vacationed several summers in Bar Harbor. I  
8 don't have any record that tells me that, you know, we  
9 did. I'm pretty sure we did in '87. I doubt if we did in  
10 '88.

11 Q Do you remember if, after the original purchase of the  
12 chess set, there was ever any occasion where Gordon was  
13 looking for any other kind of chess set pieces?

14 A Shortly after he purchased it, I remember him telling me  
15 that he had a piece missing and when we returned the next  
16 year, we went back to the same store looking to see if he  
17 could buy an individual piece.

18 Q Did you ever have occasion to visit Gordon whenever he was  
19 stationed at St. B's in Keene?

20 A St. Bernard's?

21 Q Yes. Sorry.

22 A Yes, I did.

23 Q Do you remember whether you had any occasion to visit him

1           there shortly after he had come to St. B's, St. Bernard's?

2   A    I'm sure I visited him. We usually would visit one another  
3           every two or three months.

4   Q    Do you remember whether or not when you first visited, he  
5           had an office yet?

6   A    In the beginning he did not have the office that he had  
7           later on.

8   Q    And where was the office that you understood he ultimately  
9           had? How would you describe its relationship to the church  
10          and the street?

11   A    Facing with my back to the street facing the rectory, the  
12          office was in the front left-hand corner facing, windows  
13          facing the street and the driveway in the church.

14   Q    When you and Gordon--. Excuse me. When you and Mr. MacRae  
15          vacationed in Bar Harbor and bought the chess set, do you  
16          remember the name of the friends that were with you?

17   A    I do.

18   Q    And who were they?

19   A    Sister Fran Lissen (phonetic spelling), Sister Pam Wagner,  
20          and Sister Kathy--. I forget Cathy's last name. They were  
21          working with me in the parishes up north.

22   Q    Do you remember if they were with you when Gordon purchased  
23          the --. Strike that. Do you remember if they were with

1           Gordon and you when Gordon purchased the chess set?

2   A       I'm not sure whether they were with us then but they were  
3           with us during that time.

4   Q       Do you remember whether or not you ever had any  
5           conversations with Gordon MacRae regarding Derby Lodge?

6   A       Yes.

7   Q       Do you remember whether those had to do with any individual  
8           or individuals?

9   A       I remember he was asking about it for someone who, that he  
10          wanted to refer there.

11   Q       Do you know if the person that he wanted to refer there was  
12          a person by the name of Thomas Grover?

13   A       I'm not sure whether he was asking about it then but I know  
14          that ultimately Thomas Grover did go there and Gordon was  
15          involved in that so I would presume---. I don't remember  
16          the specifics but I would presume that his initial inquiry  
17          was for that.

18   Q       When you and Gordon were talking on the phone about Derby  
19          Lodge, did a person by the name of Debbie Collette's name  
20          come up?

21   A       I believe so.

22   Q       Did you know Miss Collett?

23   A       I did.

1 Q From the conversation, did you have any reason to believe  
2 that Gorden did?

3 A I don't believe he did.

4 Q So you were discussing her and her abilities with Gordon?

5 A Correct. Not necessarily her abilities but the fact that  
6 she worked there and I knew here.

7 Q Her connection with the institution?

8 A Correct.

9 Q You don't know Thomas Grover?

10 A I have met him but I do not know him, you know.

11 Q Did you have occasion to meet any other Grovers?

12 A I did.

13 Q Did you ever meet Chris Grover?

14 A I did.

15 Q Do you remember what the occasion or circumstances were?

16 A With Chris?

17 Q Yes.

18 A He and Gordon came for a few days to visit me at the  
19 rectory in Groveton and they arrived whatever day of the  
20 week it was and stayed overnight and the next day we went  
21 for a day trip to Montreal, which was half as close as  
22 Boston was that far north, and we spent the day visiting  
23 Montreal and came back that evening.

1 Q Do you remember whether or not, at the time, Chris Grover  
2 was in the military?

3 A I know he was, yes.

4 Q Do you remember what his branch of the service was?

5 A I believe the Air Force.

6 MR. DAVIS: Excuse me one minute, your Honor.

7 (Pause)

8 MR. DAVIS: No further questions, your Honor.

9 THE COURT: Thank you, Attorney Davis.

10 MR. REYNOLDS: If I may have just a moment, please.

11 THE COURT: You may.

12 (Pause).

13 MR. REYNOLDS: Pass the witness.

14 THE COURT: Thank you for your testimony.

15 THE WITNESS: Thank you, your Honor.

16 MR. DAVIS: Your Honor, may we approach the bench?

17 THE COURT: Yes

18 (Discussion held off the record.)

19 THE COURT: We will take a 20 minute recess

20 (Jury excused)

21 HEARING OUT OF THE PRESENCE OF THE JURY

22 THE COURT: Did you have the opportunity to talk with the  
23 witness?

1 MR. GAINOR: Briefly, your Honor, and we'd like to request we  
2 do a sidebar with the State's motion to keep this witness  
3 off the stand.

4 THE COURT: Well, how--

5 MR. GAINOR: It's of a highly prejudicial nature. I'm not sure  
6 that this is something that the entire courtroom needs to  
7 hear.

8 THE COURT: In what sense? Towards who?

9 MR. GAINOR: Towards the victim, Tom Grover.

10 THE COURT: All right. Then we'll have to have a record.

11 CONFERENCE AT THE BENCH.

12 THE COURT: What is it the witness is going to testify about?

13 MR. DAVIS: Your Honor, I make an offer of proof, it's my  
14 understanding that the witness would testify, he would  
15 generally state that in late '89 or early 1980, excuse me,  
16 1990, he had the occasion to live in Manchester and was a  
17 volunteer at the Tirrell House at the time Tom Grover was  
18 in residence. It's a halfway house program. That Mr. Clay  
19 moved a short distance, a couple of houses. He hired Tom  
20 to do it and had had some dealings with Tom at the Tirrell  
21 House. Mr. Clay is also a recovered alcoholic and an  
22 active member of Alcoholics Anonymous. At the end of the  
23 move, Mr. Clay asked something along the lines of, "What

1 are you going to do when you get out of Tirrell House?  
2 What do you plan on doing next?" It's his memory that Tom  
3 responded something to the effect that, "I have an  
4 insurance scheme or scam in Keene that I may pursue." It's  
5 my understanding Mr. Clay would say that he then said  
6 something along the lines of, "Tom, you need to remember,"  
7 or, "Tom, the biggest part of A.A. is being truthful or  
8 honest." I'm not sure, it's not clear from my notes  
9 whether he said "truthful" or "honest." Tom's response  
10 was, "Oh, yeah," and that Mr. Clay had not been aware of  
11 this case had no further dealings with Tom whatsoever, saw  
12 his picture on the television last week, happened to  
13 mention to his boss, he works for New Hampshire Food Bank  
14 which is funded by Catholic Charities, and apparently it  
15 had worked its way up the line and we found out about it  
16 this week, so we would offer it for purposes of  
17 impeachment.

18 MR. GAINOR: Your Honor, the first disclosure made by any  
19 member of the Grover family was in 1993. This occurred I  
20 understand from talking with the witness in 1989, possibly  
21 early 1990. The State objects to this coming in at all on  
22 the basis of, number one, relevancy pursuant to 401.  
23 Basically Tom, according to this witness, said, "I'm going

1 to Keene to engage in an insurance scam or scheme." He  
2 doesn't say what the scam or scheme was. It could have  
3 been anything under the sun. To tie it into this case is  
4 highly prejudicial, highly--

5 MR. DAVIS: And--. I'm sorry. I didn't mean to interrupt.  
6 Our argument is, is it shouldn't have to be tied into this  
7 case per se; it just has to be tied into his propensity for  
8 truth telling and honesty and if, in fact, he was seriously  
9 contemplating engaging in an insurance scheme or scam,  
10 either one indicates that his general mindset is not one of  
11 a truth teller.

12 MR. KOCH: We'd like to put him on the stand, your Honor, so  
13 that you could at least hear what his testimony is, judge  
14 his demeanor and decide its relevance or applicability.

15 MR. GAINOR: Your Honor--.

16 THE CLERK: The press is objecting. He's objecting to the  
17 sidebar and wishes to have it open.

18 MR. REYNOLDS: We would just finish our argument, your Honor,  
19 and then we can see what's going to happen.

20 THE COURT: No. What we can do is I'll hear your argument  
21 here in open court. I want to hear the whole thing again

22 (Conclusion of Conference at the Bench)

23 THE COURT: Attorney Davis.

1 MR. DAVIS: Your Honor, given the nature of the matter, rather  
2 than making a proffer could we just do it with the witness  
3 here? I'd just ask him what he had to say.

4 THE COURT: That's fine. What's the witness's name?

5 MR. KOCH: Dean S. Clay.

6 THE COURT: Okay.

7 MR. DAVIS: With your Honor's permission, your Honor, could I  
8 just advise him that we are asking these questions outside  
9 of the presence of the jury as a preliminary matter?  
10 Because I think he knows it's a jury trial and he may  
11 wonder why.

12 THE COURT: Well, I don't know how that's going to make any  
13 difference to him.

14 MR. DAVIS: Okay. Mr. Clay?

15 DEAN CLAY

16 who was called as a witness, and having been first duly sworn,  
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. DAVIS:

20 Q Would you please be seated, sir. Would you please state  
21 your name for the record, spell your last name and tell us  
22 where you're employed?

23 A My name is Dean Clay, C-l-a-y, and I'm employed at the New

1 Hampshire Food Bank.

2 Q Where do you live, Mr. Clay?

3 A Londonderry, New Hampshire.

4 Q What do you do at the New Hampshire Food Bank?

5 A I'm the warehouse manager.

6 Q How long have you been there, sir?

7 A I've been there six years in November.

8 Q Have you ever had any occasion to have any connection with  
9 a place called the Tirrell House? And excuse my accent. I  
10 know that was not the way anyone around here says it.

11 A Yes. I graduated Tirrell House August of 1988.

12 Q And that was a halfway house program?

13 A Yes, for men.

14 Q Okay. To assist people who have had alcohol addiction  
15 problems?

16 A Right.

17 Q Or are having alcohol addiction problems?

18 A Right.

19 Q In the course of doing volunteer work at the Tirrell House,  
20 did you ever have the occasion to have any contact with a  
21 Thomas Grover?

22 A Yes, I did.

23 Q Okay. And did you ever have any occasion to deal with Tom

- 1           or hire Tom outside of the Tirrell program?
- 2    A     Yes, I did.
- 3    Q     How was that, sir?
- 4    A     I was looking for someone to help me move. I was moving my  
5           apartment from one building to another.
- 6    Q     In Manchester?
- 7    A     In Manchester on Union Street and I went into the Tirrell  
8           House and Tom was there and I'd asked him if he helped me  
9           move, that I would pay him.
- 10   Q     And did he help you move?
- 11   A     Yes.
- 12   Q     And did you pay him?
- 13   A     Yes.
- 14   Q     Was there any conversation or exchange between the two of  
15          you towards the end of the moving or at the end of the  
16          move?
- 17   A     Yes. When we were finished moving, I think we had a soda  
18          each or something and then we walked down the stairs  
19          towards the street. Once we got to the street, I had asked  
20          him what his plans were after he graduates Tirrell House.
- 21   Q     Did you know at the time that he was close to graduating  
22          Tirrell House?
- 23   A     Yeah, within a couple of weeks or something.

- 1 Q Go ahead, sir.
- 2 A And he responded that he has an insurance scheme or scam  
3 going over in the Keene area that he may pursue.
- 4 Q You're not sure whether he used the word scheme or scam?
- 5 A I'm not sure.
- 6 Q How did you respond when he said that?
- 7 A I reminded him about the methods of A.A. or the A.A. motto,  
8 if you will, that you're supposed to always have rigorous  
9 honesty.
- 10 Q That's part of the--. I'm not familiar with the program.  
11 Is that part of the 12 steps or one of the tenets?
- 12 A It's one of the tenets of the 12 steps.
- 13 Q Okay. And what, if any, response did you receive?
- 14 A I think he just said, "Oh, yeah."
- 15 Q Had you had occasion previous to that to talk to Tom or try  
16 to talk to Tom?
- 17 A Previous to moving?
- 18 Q Yes.
- 19 A I had occasion, yeah.
- 20 Q And was Tom the type of person that would volunteer  
21 information?
- 22 A He seemed to me like a very quiet, subdued kind of fellow.
- 23 Q Do you remember him being the type of person that joked a

1 lot and chewed the fat and that kind of stuff?

2 A No.

3 Q Okay. And at the time he said this, did he say it in a  
4 serious or somber term or did he say it laughingly?

5 A At first I thought he was just joking and then towards the  
6 end when he said, "Oh yeah," about the rigorous honesty I  
7 kind of took it a little bit seriously.

8 Q After that point, have you had any further contact with Mr.  
9 Grover?

10 A Not at all.

11 Q Okay. And how did you even become aware of any of this  
12 might even conceivably --. Let me ask it a different way.  
13 When, if at all, did Tom Grover or this event come back  
14 into your memory? What were the circumstances?

15 A Last week I was washing out baby bottles. I have a newborn  
16 baby and I was watching the TV and I seen Tom Grover on the  
17 witness stand and when I seen Tom on the witness stand, it  
18 immediately hit me about the conversation we had after he  
19 helped me move.

20 MR. DAVIS: No further questions, your Honor.

21 THE COURT: Attorney Gainor.

22 MR. GAINOR: Thank you, your Honor.

23

CROSS-EXAMINATION

BY MR. GAINOR:

Q This conversation that you had with Tom Grover was in 1989 or 1990?

A Right.

Q Do you remember if it was late 1989, early 1990? Do you remember whereabouts?

A I'm not sure if it was right after Christmas or before Christmas.

Q And when Tom said he was going to go to Keene to engage in some kind of insurance scheme or insurance scam, you didn't know what he was talking about, did you?

A No.

Q You don't know whether "scheme" denotes something illegal or something legal, do you?

A No.

Q So you have no idea what he was referring to?

A None at all.

Q He could have been referring to a number of things, right?

A Yeah.

MR. GAINOR: Nothing further.

THE COURT: Thank you for your testimony. You may or may not have to come back as a witness.

1 MR. DAVIS: Your Honor, since we're going to argue the matter  
2 now and since we have a sequestration room, I think it  
3 would be appropriate if Mr. Clay was excused from the  
4 courtroom during the argument.

5 THE COURT: Oh, yes.

6 MR. DAVIS: Thank you.

7 (Witness excused)

8 MR. GAINOR: Your Honor, the State objects to this testimony  
9 coming in under New Hampshire Rule of Evidence 401  
10 particularly. In order for evidence to be admissible, it  
11 has to be relevant. That's a fundamental principle under  
12 our rules of evidence and this has, this evidence has no  
13 tendency to make anything in issue in this case more  
14 probable or less probable.

15 The fact that Tom mentioned, according to this witness,  
16 that he was going to engage in an insurance scam or  
17 insurance scheme could pertain to anything under the sun.  
18 It could be legal, could be illegal. There is nothing to  
19 connect that statement into this case.

20 Number two, even if the Court were to find that it was  
21 relevant, because it has no connection, no thread to this  
22 case, it's highly, highly prejudicial. What's the  
23 probative value? If something is relevant, it has to be

1 probative in relation to how prejudicial it is. The reason  
2 this is so prejudicial is that the jury could take a leap  
3 with this and apply it to this case when that witness isn't  
4 making such a connection. And just the statement Tom said  
5 he was going to engage in a scheme or a scam, they are  
6 going to view that purely for character, purely for  
7 character, nothing to do with this case. And under rule--

8 THE COURT: 608?

9 MR. GAINOR: --608, your Honor, evidence of character conduct  
10 of a witness, 608(b) provides that extrinsic evidence  
11 cannot be used to show specific acts of untruthfulness so I  
12 don't believe that this witness could come in and testify  
13 to this statement made by Tom and that's being introduced  
14 for the sole purpose of showing that Tom has a character  
15 which shows that he is incredible.

16 And also under 404(a)(2), character of a victim, that  
17 can only be done by opinion or reputation so it can't come  
18 in under that either. And I think a prime example, your  
19 Honor, of this evidence, the reason why this evidence  
20 shouldn't be let in is the State's attempt to bring into  
21 evidence the letters between Detective McLaughlin  
22 purporting to be Jon Grover and the defendant where there  
23 was clearly a connection there by the defendant at some

1 point believing that he was corresponding with Tom Grover.  
2 And the court said, well, there may not be a connection,  
3 it's probably confusing, it'll probably confuse the jury  
4 and that was exactly the situation we have here. The State  
5 believed in that instance that we had a connection that was  
6 probative. The Court didn't find such and I think at this  
7 instance it's much more clear, much more clear of there  
8 being no connection and there is a very substantial  
9 likelihood of the jury being confused about this statement  
10 made by Tom according to this witness and the jury using it  
11 for impermissible purposes. Again since there's no  
12 connection, I believe it's sheer character evidence which  
13 isn't allowed under our rules of evidence.

14 THE COURT: Thank you.

15 MR. DAVIS: Your Honor, our contention is in this case, as his  
16 Honor has noted on numerous occasions, this is a case that  
17 is perhaps more so than the normal case about credibility.  
18 And in this case, in all due deference to the State, I  
19 believe the evidence that Mr. Clay would offer is not  
20 confusing, it's not overly long, it's not overly  
21 complicated, it's very succinct and it goes very directly  
22 to whether or not the alleged victim in this case is or is  
23 not a person who's honest and takes honesty seriously.

1           Now, the State makes argument about how they couldn't  
2           get into other issues and somehow that applies to this  
3           instance. This is a criminal case, a very serious criminal  
4           case in which the alleged victim has made extremely serious  
5           charges. Those charges go back numerous years and we ought  
6           to have the ability to challenge his credibility and his  
7           honesty and we have what I believe in all due deference to  
8           be succinct, specific evidence on that point.

9           It seems to me that it meets the threshold requirements  
10          for relevancy under 401 and it is a perfect example of the  
11          type of evidence that ought to be allowed to go to that  
12          very issue of his honesty, his credibility. It's not the  
13          type of evidence that takes two hours. It's not a  
14          confusing situation and if the State is concerned that  
15          somehow the evidence will be used in an inappropriate way,  
16          the State could ask and the Court could grant an  
17          appropriate limiting instruction.

18          Your Honor, this evidence goes directly to, in our  
19          opinion goes directly to Mr. Grover's truth telling on the  
20          one hand and motive on the other and for that reason, your  
21          Honor, we would reason, we respectfully submit that it is  
22          admissible evidence and the State has adequate opportunity  
23          to cross-examine Mr. Clay on the point and they also have

1 the opportunity on rebuttal to call Mr. Grover and ask him  
2 about it, and I don't think that even if that were to  
3 occur, that it would be a prolonged or a long inquiry.

4 For those reasons, your Honor, we respectfully submit  
5 that both under the rules of evidence and as a result of  
6 the necessities of fundamental fairness and allow the  
7 defendant to present a full, complete, and adequate defense  
8 both under the confrontation clauses of the Federal  
9 Constitution and the due process clause of our State  
10 Constitution, the evidence should be admissible, and I  
11 leave it to the discretion of your Honor.

12 MR. GAINOR: One sentence, your Honor. None of the Grovers  
13 came forward until 1993 and once Tom found out about that,  
14 that's when he came forward. There has been no testimony  
15 in this very long trial that Tom discussed his molestation  
16 by the defendant with anyone other than Debbie Collett  
17 before officially coming forward after he learned that his  
18 brother Jon Grover had come forward with allegations  
19 against the defendant so there is no evidence in this case  
20 which would support the leap of faith connecting Tom's  
21 statements in 1989 or 1990 to this witness to this case.  
22 There is nothing out there that serves as a basis for that.

23 THE COURT: Thank you. I'll tell you what we're going to do.

1       The jury is coming back at 1:00 o'clock. I'm going to take  
2       a look at the law on this and make a decision. Make sure  
3       the witness stays around, which I'm sure you'll do, and at  
4       1:00 o'clock I'll give my ruling. Thank you.

5   MR. GAINOR:   Thank you, your Honor.

6   MR. DAVIS:    Thank you.

7                       (Luncheon Recess Taken)

8                       \* \* \* \* \*

9                       AFTERNOON SESSION

10                      HEARING OUT OF THE PRESENCE OF THE JURY

11   THE COURT:    Please be seated. All right. I've drafted an  
12                   order in this case. I'm going to read a part of a case.  
13                   It appears to me at least to be on point.

14                   Defense counsel has moved to introduce the testimony of  
15                   a Mr. Dean Clay. Mr. Clay would testify that several years  
16                   ago he asked Mr. Grover to help him move to a new  
17                   apartment, or something along that line,. And at that  
18                   time, Mr. Grover lived in Manchester at Tirrell House and  
19                   knew Mr. Clay from A.A.. While Mr. Grover was helping Mr.  
20                   Clay move, Mr. Clay asked him what he intended to do after  
21                   he left Tirrell House. Mr. Grover answered that he might  
22                   go to Keene and pursue some kind of insurance scam or  
23                   scheme, or something along that line. The defendant offers

1 Mr. Clay's testimony to impeach Mr. Grover, that is, to  
2 show that Mr. Grover is deceitful or untruthful.

3 The defendant first argues that this testimony is  
4 evidence that Mr. Grover is untruthful. The defendant also  
5 asserts that the testimony is evidence of Mr. Grover's  
6 motive in making his allegations against Mr. MacRae. Now  
7 New Hampshire Rule of Evidence 608(b) prevents the  
8 admission of extrinsic evidence to prove specific instances  
9 of conduct of a witness for the purpose of attacking or  
10 supporting the witness' credibility. Under Rule 608(b),  
11 the defendant may not put Mr. Clay on the stand to testify  
12 about this alleged specific incident of conduct because it  
13 is extrinsic evidence aimed at attacking Mr. Grover's  
14 credibility. However, the Court finds that the evidence  
15 does provide a good faith basis for the defendant to  
16 cross-examine Mr. Grover about the statement for purposes  
17 of impeachment concerning Mr. Grover's character for  
18 truthfulness or untruthfulness. It's untruthfulness  
19 obviously from the defendant's point of view.

20 This is citing State v. Hopkins, which is at 136 New  
21 Hampshire 272. Now, the defendant may ask the questions  
22 but he must take the answers. Finally, the Court finds  
23 that there is, I can't find any good cause shown to use

1       this testimony to show motive. I don't see how it's  
2       material to motive and I don't see that it would assist the  
3       trier of fact in deciding motive.

4       I'll read the pertinent paragraph in State v. Hopkins,  
5       which is at 136 New Hampshire. Actually the page citation  
6       would be 136 New Hampshire 276. "The trial court has  
7       discretion to allow inquiry during cross-examination into  
8       specific instances of conduct for the limited purpose of  
9       impeaching the witness's credibility," and it cites New  
10      Hampshire Rule of Evidence 608(b). "Although a  
11      cross-examiner may inquire into conduct probative of  
12      untruthfulness, the examiner must take the answer as the  
13      witness gives it. The examiner may not introduce extrinsic  
14      evidence, such as calling other witnesses, to rebut the  
15      witness's statements. The objective is to avoid a trial  
16      within a trial, that is, to avoid the litigation of issues  
17      that are collateral to the case at hand."

18      Now, in this case what I would visualize is that if the  
19      new witness, I'll just call him the new witness because  
20      none of us knew about him until very recently, took the  
21      stand and started to testify and this was used as probative  
22      of the witness's truthfulness or his motive or anything  
23      else, then we would be leaping into questions about

1        rebuttal and potentially all kinds of evidence, some of it  
2        404(b) evidence as the victim explains what the  
3        circumstances were in Manchester at that time and what the  
4        circumstances were that caused him to finally step forward  
5        and make these allegations. Of course, that would all be  
6        up to the jury to decide whether the victim was credible or  
7        not but we would end up, I think, in a trial within a  
8        trial, which is precisely what Rule 608(b) is established  
9        to prevent. So you may put Mr. Grover on the stand and ask  
10       him the question and we'll see what his answers are or, of  
11       course, you can choose to do whichever you wish. You may  
12       want to think about that, take a few minutes. That's fine  
13       with me.

14    MR. REYNOLDS: Your Honor, I guess I would query when defendant's  
15       counsel was first apprised of this information.

16    THE COURT:        When was it?

17    MR. KOCH:         I believe yesterday, your Honor.

18    THE COURT:        Yesterday?

19    MR. KOCH:         In fact, it was when the State had called down  
20       Monseigneur Quinn and Christian to be their witnesses in  
21       this case that this first came to light.

22    THE COURT:        What happened exactly? Did he go to the--. Did  
23       this witness, Mr. Clay--

1 MR. KOCH: As I understand it, and Mr. Cook, our  
2 investigator, could trace it better for the Court. As it  
3 stands, the way it developed was something to the effect  
4 that he had told somebody else, made a comment to them who  
5 then made a comment and it kind of went up the ladder and  
6 that was the way we learned about it.

7 MR. REYNOLDS: Mr. Clay indicated, so the Court knows, that he  
8 saw Mr. Grover on television. He indicated to his boss--.  
9 He works for the Food Bank in Manchester.

10 THE COURT: Is it Gray or Clay?

11 MR. REYNOLDS: Clay. He told his boss. Evidently Catholic  
12 Charities has a lot to do with the Food Bank because they  
13 run a deficit of 80,000 a year Catholic Charities makes  
14 up. Mr. Stanislaw, or whoever Mr. Clay's boss is,  
15 evidently told Monseigneur Quinn. Monseigneur Quinn  
16 related the information. But the reason I ask is  
17 Monseigneur Quinn was here two days ago. Tom Grover was  
18 testifying two days ago. The defendant's lawyer had this  
19 information when Tom Grover was on the stand. They could  
20 have used it then. If they didn't use it then, it seems to  
21 me that they have forgone their opportunity to use it.

22 THE COURT: Well, I don't agree. I don't agree. I think if  
23 the--

1 MR. REYNOLDS: I'll sit down.

2 THE COURT: --defendant chooses, we'll put him on the stand  
3 and I think fairness requires a--

4 MR. KOCH: May we talk about that, your Honor? Because that  
5 would be our last witness.

6 THE COURT: If you want to take a few minutes, that's fine.  
7 Let the bailiff know when you're ready to go and we'll do  
8 that.

9 MR. KOCH: Is he here?

10 MR. REYNOLDS: No.

11 MR. GAINOR: We have to get him.

12 MR. KOCH: Because we would plan on resting, your Honor.  
13 We're not going to put on any additional evidence.

14 THE COURT: Well, talk about it. Figure it out. Take your  
15 time.

16 MR. KOCH: Okay.

17 (Recess taken)

18 \* \* \* \* \*

19 THE COURT: Is there anything further before we bring up the  
20 jury?

21 MR. KOCH: Your Honor, two things. One, we decided not to  
22 pursue that line of questioning. We are going to rest, and  
23 I understand the State may have some rebuttal and I would

1           like a proffer to make sure that it is rebuttal prior to  
2           witnesses being called.

3   THE COURT:     That's fine.   Attorney Reynolds.

4   MR. REYNOLDS: Yes.   I plan to call numerous members of the  
5           Grover family who saw the chess board there in the 1983  
6           period to rebut the purchase that supposedly occurred in  
7           1986, and also plan to call Pat Grover to indicate that  
8           Chris Grover's dates of service in the Air Force were from  
9           1981 to 12/9/91 to rebut the implication that somehow there  
10          was some confusion as to the date of Chris being available  
11          to go up to Montreal as opposed to the trip to Lynn,  
12          Massachusetts and the airport.

13   THE COURT:     Rebuttal testimony.   All right.   We can bring up  
14           the jury.   The defendant will then rest, the State will put  
15           on its witnesses, et cetera.   Are your witnesses here,  
16           Attorney Reynolds?

17   MR. REYNOLDS: Indeed.

18   THE COURT:     Okay.

19   (Pause)

20   HEARING BEFORE THE JURY

21   MR. KOCH:       Your Honor, we'll rest at this point.

22   THE COURT:     Thank you.   Attorney Reynolds.

23   MR. REYNOLDS: Thank you.   David Grover, please

1                                    DAVID B. GROVER

2    who was called as a witness, and having been first duly sworn,  
3    was examined and testified as follows:

4                                    DIRECT EXAMINATION

5    BY MR. REYNOLDS:

6    Q     Please be seated. Please state your name for the record,  
7           spelling your last name.

8    A     David B. Grover. It's G-r-o-v-e-r.

9    Q     And Mr. Grover, what town do you reside in?

10   A     Bennington, New Hampshire.

11   Q     Do you know a Tom Grover?

12   A     Yes.

13   Q     How do you know him?

14   A     My brother.

15   Q     Younger brother?

16   A     Yes.

17   Q     Do you know a person by the name of Gordon MacRae?

18   A     Yes, I do.

19   Q     And is he in the courtroom today?

20   A     Yes.

21   Q     Can you point him out and describe what he's wearing,  
22           please?

23   A     He's sitting right here in the center with a gray sport

1 jacket on.

2 Q The gentleman that I'm standing behind?

3 A Yes.

4 MR. REYNOLDS: Please let the record show the witness has  
5 identified the defendant.

6 THE COURT: The records so shows.

7 Q Mr. Grover, what year did you graduate from high school?

8 A I graduated in 1983.

9 Q And can you tell us briefly what you did for the next  
10 several months after you were graduated?

11 A I worked for a company, Cheshire Builders, in Keene as a  
12 laborer until November of '83 and after that, I worked for  
13 the church until, up until I went into the military.

14 Q And when you say you worked for the church, which church  
15 was that?

16 A St. Bernard's.

17 Q And that was where you and your family were members, I  
18 guess?

19 A Yeah.

20 Q And how long did you work for the church?

21 A From November, right around November of 1983 till February  
22 of '84.

23 Q Till February of '84?

1 A Yes.

2 Q And then you say you went into the service?

3 A Yes.

4 Q And which service was that?

5 A The U.S. Army.

6 Q For how long were you in the service?

7 A Three years.

8 Q When did you ultimately come back to Keene?

9 A It was around April of '88, I believe.

10 Q April of '88? And in that period of time, let me say before  
11 you went into the service in 1984 or so, beginning with the  
12 summer of graduating from high school, '83 until you went  
13 into the army in '84, did you ever have occasion to be in  
14 the rectory at St. Bernard's?

15 A Yes.

16 Q How often were you there say summer of '83 into early '84?

17 A Well, I worked for the church at the end of, around  
18 November but I knew Mr. MacRae the whole time so I was in  
19 and out between then and also when I worked for the church  
20 that fall through the winter up till February of '84.

21 Q Let me ask you, please, Mr. Grover, to stand up for a  
22 minute and behind you you'll see an easel and there are  
23 several pieces of paper folded over. Would you fold them

1 all forward so we can see what's on there?

2 A (Witness complies).

3 Q Now what we have here purports to be, through the testimony  
4 of other witnesses, a portion of the first floor of the St.  
5 Bernard's rectory. Do you recognize that?

6 A Yes.

7 Q Okay. Now, if I were to tell you that Main Street would be  
8 at the top of the chart there --

9 A Right.

10 Q -- do you happen to know at least part of the time which  
11 office Mr. MacRae had?

12 A Yes. It was here (indicating).

13 Q Now did he have an office toward the back of the building  
14 or the front of the building?

15 A I don't know from my knowledge. I was here and I never  
16 went into any other offices. This is the only office I was  
17 in.

18 Q Okay. And that was the one toward the back of the  
19 building?

20 A Yeah, you would say that, to the back of building.

21 Q Well, okay. Let me ask you to sit down then. When you  
22 were in the building, did you know that to be Mr. MacRae's  
23 office for any period of time?

1 A From what he told me, yes.

2 Q I see. And were you aware of any of the items he had  
3 contained in that office before you went into the army?

4 A Yes, generic items. Desk, chairs, things of that nature.

5 Q Did you ever notice a chess board in the office that he  
6 represented was his?

7 A Yes.

8 Q And can you describe it to us, please?

9 A I can't describe it very well. It's one of those things  
10 you just take for granted as there. You don't really look  
11 at it much. I believe it was like a marble table. I can't  
12 really describe the figures or anything like that but I  
13 know there was one there.

14 Q And that was in existence in what the defendant had  
15 indicated to you was his office?

16 A Yes.

17 Q Prior to your going into the army in 1984?

18 A Yes.

19 MR. REYNOLDS: No further questions.

20 THE COURT: Thank you.

21 MR. KOCH: I have no questions, your Honor.

22 THE COURT: Thank you. Thank you for your testimony.

23 MR. REYNOLDS: Thanks very much. Jon Grover, please.

1                                    JONATHAN GROVER

2    who was called as a witness, and having been previously duly  
3    sworn, was examined and testified as follows:

4                                    DIRECT EXAMINATION

5    BY MR. REYNOLDS:

6    Q    Please have a seat, and you're still under oath.

7    A    Okay.

8    Q    Do you remember that first summer that Mr. MacRae arrived  
9           and took up residence at the rectory in Keene at St.  
10          Bernard's?

11   A    I do.

12   Q    And do you remember if you were ever in the defendant's  
13          office?

14   A    I was.   Many times.

15   Q    And you look at that chart behind us, assuming Main Street  
16          to be at the very top, and can you point out which office  
17          was his, to your recollection?

18   A    This one right here.

19   Q    You're pointing to the one that says "SE"?

20   A    Right.

21   Q    Can you tell us, please, during that period of time that  
22          MacRae was in residence in that office, can you tell us  
23          what was in his office?

1 A What was in his office?

2 Q Yes.

3 A He had a fairly big desk, a desk that was in the office.  
4 There was that. There was many things. There was  
5 bookcases and the chess table that was there. Just I guess  
6 normal things, other things that would be in the office.  
7 Radio.

8 Q Do you have any recollection that you can describe that  
9 chess table that you just referred to?

10 A Yeah. It was a somewhat fancy chess table that, one of the  
11 ones that would be on--. It stood on its own and that it  
12 had, the pieces were, they were on the table.

13 Q Do you recollect what material it was made of?

14 A I believe it was some type of stone.

15 Q And over what period of time ultimately were you in and out  
16 of that rectory and in and out of that rectory office while  
17 MacRae was there?

18 A How often?

19 Q How often and over what period of time?

20 A Very often and over the whole amount of time that Mr.  
21 MacRae was at the rectory.

22 Q Did he always have that chess board or one like it in that  
23 office?

1 A I believe so.

2 MR. REYNOLDS: I have no further questions.

3 CROSS-EXAMINATION

4 BY MR. DAVIS:

5 Q Mr. Grover, my name is J.R. Davis. I don't believe we've  
6 had the opportunity to meet yet. You had numerous  
7 occasions to be in Mr. MacRae's office?

8 A That's correct.

9 Q And you were in his office as late as 1987.

10 A That's correct.

11 Q And you know that at least at some point he had a chess  
12 table?

13 A Correct.

14 Q You didn't play chess with Mr. MacRae?

15 A No, I didn't.

16 Q And the time that Mr. MacRae was at St. Bernard's as an  
17 associate pastor was four years?

18 A Four years?

19 Q From 1983 to '87?

20 A From '83 to '87, correct.

21 Q Okay. You don't have any kind of diary or log or calendar  
22 that tells you the various times when you were there?

23 A No. As a friend, I was in and out of Mr. MacRae and the

1 rectory quite often.

2 Q And you don't have anything other than your recollection  
3 now 11 years after the fact as to when the chess table was  
4 there.

5 A As to when?

6 Q Yes. You don't have anything in writing?

7 A In writing?

8 Q Yes.

9 A No.

10 Q You don't have any pictures?

11 A No.

12 Q And you're not a chess player?

13 A I have played chess but not in Mr. MacRae's office.

14 MR. DAVIS: No further questions, your Honor.

15 REDIRECT EXAMINATION

16 BY MR. REYNOLDS:

17 Q When, during the period of time that Mr. MacRae was in  
18 residence, do you recollect that chess board being there?

19 A Pretty much the full amount of time.

20 Q From when he got there until when he left?

21 A Right.

22 Q Thank you.

23 MR. DAVIS: No further questions, your Honor.

1 THE COURT: Thank you for your testimony.

2 THE WITNESS: Thank you.

3 MR. REYNOLDS: Pat Grover, please.

4 PATRICIA GROVER

5 who was called as a witness, and having been previously duly  
6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. REYNOLDS:

9 Q Please walk this way is and please just have a seat, and  
10 you're still under oath.

11 A Okay.

12 Q From the summer of 1983 on when Mr. MacRae arrived at St.  
13 Bernard's in Keene, did you have an opportunity to go into  
14 the rectory?

15 A On many occasions.

16 Q And did you have an opportunity to go in his office in the  
17 southeast corner of the building?

18 A I'm not very good on directions when you say southeast.

19 Q Okay. Can you describe where his permanent office was, to  
20 the best of your recollection, in the rectory?

21 A If you came in through the front door, which nobody did, it  
22 would have been on your left-hand side as you came in  
23 through the vestibule. If you came in the back door by the

1 garage, which would take you into the office part, then you  
2 would go down a corridor and a big office on the right on  
3 the front. Although when he was first there I think he  
4 used, there was a little office right off a little room  
5 right off the big office and that he used that also.

6 Q I see. Let me ask you, please, did you have a son by the  
7 name of Chris who was older than Tom and David and Jon?

8 A Yes.

9 Q I see. And was Chris ever in the service? I think you'd  
10 indicated he was.

11 A Yes. In the Air Force.

12 Q Do you recall when Chris joined up in the Air Force?

13 A The day that he actually went in was November 13th, 1981.  
14 I remember that because it was his adoption day.

15 Q And did you celebrate adoption days in your family for your  
16 kids?

17 A Yeah, we did. They were like birthdays.

18 Q How long was Chris in the Air Force?

19 A About 11 years.

20 Q No further questions. Thank you.

21 MR. KOCH: No questions, your Honor.

22 THE COURT: Thank you for your testimony.

23 THE WITNESS: Thank you.

1 MR. REYNOLDS: Thanks very much. No further rebuttal, your  
2 Honor.

3 THE COURT: Thank you. Anything further, Attorney Koch?

4 MR. KOCH: No, your Honor.

5 THE COURT: Then, ladies and gentlemen of the jury, what we'll  
6 do, the case is in in this sense. The evidence is in.  
7 Tomorrow morning you'll be here at 9:30 and counsel in the  
8 case will give their final arguments and I will give you  
9 your instructions and you will begin your deliberations.  
10 Now, counsel's final arguments may last up to an hour each  
11 and my instructions will probably be about half an hour, or  
12 something like that. I want to remind you again not to  
13 discuss anything about this case with anyone, not to  
14 discuss the case among yourselves in any way. Stay away  
15 from the newspapers. Don't read anything, nothing on the  
16 radio, nothing on television. If you have any reason  
17 whatsoever that you think that you can't sit fairly at this  
18 point, please let the bailiff know and the bailiff will let  
19 me know and we'll decide whether or not you should sit. I  
20 guess there's nothing further. Thank you very much for  
21 today and, George, you can take charge of the jury.

22 (Jury excused)

23 HEARING OUT OF THE PRESENCE OF THE JURY

1 THE COURT: Please be seated. Now, is there anything  
2 further?

3 MR. KOCH: No, your Honor.

4 THE COURT: I need my recommended jury instructions. We can  
5 either do that this afternoon, or if you prefer, maybe we  
6 could get together tomorrow morning sometime after 8:30.  
7 We'll probably need at least half an hour to do that.  
8 Which would you prefer to do? Any preference?

9 MR. REYNOLDS: We'd prefer it this afternoon, your Honor.

10 THE COURT: This afternoon?

11 MR. KOCH: That's fine, your Honor.

12 THE COURT: Okay. We'll do that then.

13 MR. DAVIS: Your Honor, may I just sort of make an  
14 off-the-cuff suggestion? I wouldn't need a record.

15 THE COURT: Oh, okay.

16 (Discussion held off the record.)

17 MR. KOCH: Maybe we should put this on the record. I just  
18 spoke with my client and we've decided that there would be  
19 no limiting instruction so we're not going to ask for one.

20 MR. REYNOLDS: On 404(b).

21 MR. KOCH: On the 404(b).

22 THE COURT: Well--

23 MR. DAVIS: Discretion being the better part of valor.

1 THE COURT: Well, good. I'll see you tomorrow.

2 (Trial suspended until Thursday, September 22, 1994 at  
3 9:30 a.m.)

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5 \* \* \* \* \*