

# The Tragedy of Gilbert Gauthé

## Part II

By JASON BERRY

**L**ast week *The Times* reported on the crimes of pedophile priest Gilbert Gauthé, committed over a decade in Acadiana church parishes. The second part of this series explores the personal and legal dramas unfolding as a result of those crimes.

**W**hen Ted Campbell became an altar boy in the early 1960s, St. John The Evangelist Church in Henry was a world removed from the councils of Rome. Priests stressed the moral code handed down through centuries; and Campbell's faith grew. A strapping man in his late 30s, he became a pillar of his church: president of the parish council, a lay reader of scripture at Sunday Mass.

In July 1983, the sins of Gilbert Gauthé, pedophile priest, reached into his home, and the church Ted Campbell loved began to crumble in his heart. The Campbells were among the first families represented by lawyers

Paul Hebert and Raul Bencomo in financial negotiations with the Lafayette diocese concerning Gauthé's sexual molestation of their children (as reported last week in *The Times*). From the beginning, Campbell wanted Gauthé put behind bars. The lawyers stressed the need for patience and discretion: Getting a criminal indictment of Gauthé hinged on the victims' testimony, for which the youngsters needed psychological counseling.

Campbell quit going to church; he brooded about his faith—and about justice. He made several attempts to tell other families, with sons who were altar boys, to seek professional help. He was rebuffed, sometimes rudely. "I

had one guy come in my house and tell me to my face: 'It takes a low down son of a bitch to sue the Church.' "

When Msgr. Richard Mouton of Abbeville called, asking Campbell to come by the rectory, he knew it had something to do with Gauthé. Campbell says the priest told him: "You ought not to talk about [Gauthé]. It's none of your business." Campbell replied, "What about the rest of the kids who were altar boys?" Mouton, Campbell says, answered, "You don't need to talk about that. We'll tend to it; just tend to your son." Mouton also suggested that troubled youngsters come to him for confession—which Campbell took as a sincere, if naive,

offer of help.

One weekend in New Orleans, Campbell wandered into Mass at St. Louis Cathedral. "I looked at the priests on the altar," he recalls, "and I was judgin' 'em. I wondered if this bastard screws women, if this one was gay, if this one's a pedophile. And it's an injustice I feel. I can't help it. I can't deal with it. Every time I see a priest, it clicks in my mind: I wonder what kind of sicko this one is. I know there are good priests. It's a shame these good priests have to suffer for the weirdos they have in there. I have to accept what Gauthé did, but there's no way my God would condone that activity. I had to [sue] as a moral obliga-

**A**ttorney Minos Simon's suit on behalf of the Gastals rests on the premise that Church officials not only had prior knowledge of Gauthé's crimes but also had long tolerated homosexuality among other clerics in the sprawling diocese.



**D**efense attorney F. Ray Mouton has entered an insanity plea to Gauthé's criminal indictment. The jury will have to decide if the priest was capable of telling right from wrong at the time he molested his victims.



tion. I'm thinking of God. I don't need the Church for salvation."

The hunger for justice gnawed away. And the idea of other families out there, eschewing him while avoiding their own sons' suffering, increased his pain. By February 1984, with therapy sessions reknitting threads of the family cloth, Campbell paid a visit to Glenn Gastal, who owned a feed store in Perry.

Remembering his own rage the day he learned what Gauthe had done, he spoke gently to his friend, suggesting he have a heart-to-heart talk with his boy. In a matter of days, Gastal went to Paul Hebert's office to sue the Catholic Church.

"This whole neighborhood has a doubt in their minds," says Gastal, "as to the ones who don't really know [what Gauthe did] and won't face it. I'm talkin' about people I wouldn't want to hurt. The ones that settled tried to explain to others, and some of 'em have been kicked out of homes [for broaching the subject.] The people don't want to face those that's seen the problem. And we're not talkin' about parents, either: maybe a grandchild was involved, maybe a nephew. It's like a black cloud hanging over you that's just going to fall on you any damn minute."

Like Campbell, Gastal lost friends over his decision to sue. It cost both men in other ways as well. Campbell has a crop dusting business. "I can't prove I lost customers because of my suit," he says, "but there's no other way to explain it." Gastal got hit harder. Customers at the feed store drained to a trickle. He finally lost the business.

#### To Sue or Not to Sue

On June 4, 1984, the Campbells drove to Paul Hebert's office in Ab-

beville to sign settlement papers. En route, Campbell told his wife: "I just don't want to sign. We lose our right to sue for damages to us, as parents." But the months of waiting, the emotional ride, had drained his wife, who wanted to put the lawsuits behind them. "Ted," she said, "let's just sign."

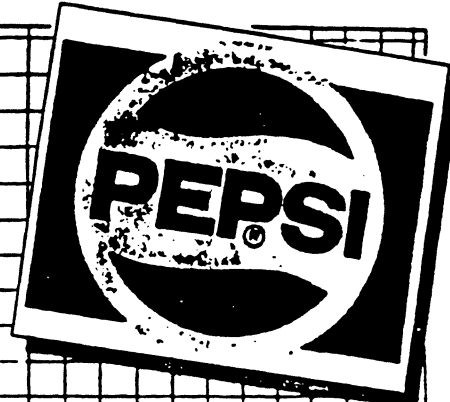
At the lawyers' office Campbell insisted on retaining his right to separate legal redress. Attorneys Hebert and Raul Bencomo explained that, as part of the settlement agreement, he no longer had that right. Reluctantly, Campbell signed. Of the \$405,000 settlement to the Campbells, \$270,000 was earmarked for their son's treatment, \$30,000 for the parents, and the remainder went to attorneys' fees and professional or medical expenses.

Campbell says the \$30,000 "was taken out of my son's settlement" and claims the lawyers misled him as to his own right to sue the Church separately. Hebert sharply disputes this, adding, "I wouldn't have included the \$30,000 [to the parents] if I had told him they had no redress."

While Ted Campbell brooded about his settlement, Glenn and Faye Gastal had their own change of heart. "I felt that for what Gauthe had done to my son, he had to be punished," says Gastal. "As far as having to sign a piece of paper that was releasing the church, saying they were not liable in no kinda way and there was gonna be no further litigation, I didn't feel I was doing the right thing."

"There was confusion between the civil and criminal matters," Hebert now says. "Our strategy was to settle the civil suits to our clients' best financial advantage and let [District Attorney] Nathan Stansbury move forward with the criminal charges. It was difficult for some parties to understand the pace by which we had to proceed.

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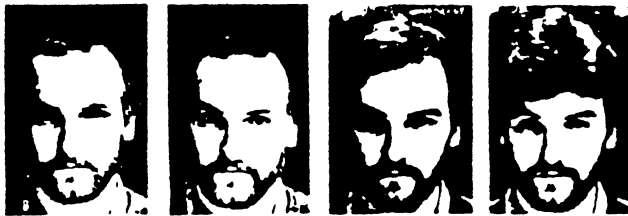


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But there was never any question about getting Gauthe indicted. The only question was, when would the kids be ready to give testimony to the grand jury?"

### Containing the Media

During the long months of negotiations over settlements, no one outside of those involved knew what was taking place. No news of Gauthe, his crimes, the victimized children or Church responsibility had yet surfaced.

When the settlement papers were signed June 4, KLFY-TV (Channel 10) reporter Dee Stanley received a tip from an Abbeville source about the agreement. He called D.A. Nathan Stansbury, who, Stanley says, told him, "The problem is all worked out. The kids won't [have to] talk for the civil cases." Stansbury, playing his cards close to the vest, refused to discuss criminal proceedings.

The reporter called Hebert, who, he says, told him: "Everything has been settled. There really is no story." Jim Baronet, Channel 10 news director reflects: "We knew something was going on, but we were cut off. Neither party would talk, the Church for liability reasons, and Hebert because he was bargaining an out-of-court, secret settlement."

The station's first report—some three months before other media would report the Gauthe story—was a cautious assessment, mentioning neither names of victims nor Gauthe. Since the settlements had been out of court, little information was publicly available. Then, two weeks later, on June 27, Hebert and Bencomo filed four suits on behalf of new clients in the Abbeville courthouse. These suits marked the first on-record documentation of the Gauthe civil damages proceedings.

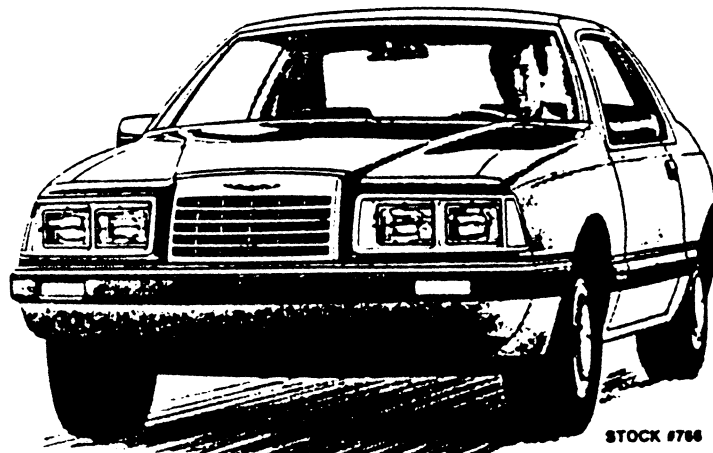
Again, a source in the Abbeville courthouse called Stanley: "The thing you're looking for has just been filed," the reporter was told. But when Stanley arrived to review documents, the docket—which lists names of plaintiffs and defendants—read: "Not Available vs. Not Available." Who was suing whom?

Stanley asked Clerk of Court Russell Gaspard where the papers were: A suit is a suit, publicly available under the law. "They're not available," Gaspard told him, adding that District Court Judge Allen Babineaux had sealed them. "I want a copy of the order that seals the suits," Stanley said. "I can't give you that," Gaspard replied. "I don't have it. Paul Hebert has it."

"We're entitled to that document," Stanley said, "it's our First Amendment right." Gaspard called Hebert. An hour later Gaspard gave Stanley a copy of the seal order. News director Baronet called Judge Babineaux, who refused to discuss the matter. The result was a shut-out: No names would be revealed. Babineaux's ruling meant the station would have to file suit to find out who was suing whom. But breaking the seal, Baronet felt, could jeopardize the victims' privacy even though his news policy was to preserve their anonymity. "Legally," says Baronet, "we found it difficult to divide the two sides."

KATC-TV (Channel 3) had similar leads, but would not air a story, even after obtaining Gauthe's name, until many weeks later, long after

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**V**ictim's father Ted Campbell has been rebuffed in his attempts to talk to other families about Gauthe's crimes. Says Campbell: "I had one guy come in my house and tell me to my face: 'It takes a low down son of a bitch to sue the Church.'"

Stanley's follow-up reports had identified Gauthe by name. *The Daily Advertiser*, AP and UPI did not report the events covered by Channel 10 that June. "We were out there alone," Baronet reflects, "and I must admit it didn't feel good."

**Bolting the Traces**

The sparse news coverage and long wait for an indictment frustrated the Gastals. In mid-summer they met with Lafayette attorney J. Minos Simon, who agreed to represent them. Simon inherited the \$12.8 million pleadings filed by Bencomo and Hebert in the Gastals' behalf. Glenn Gastal, angry and restless, wanted to publicly criticize the Church, which was eluded by Hebert's strategy.

Gastal's detection was a bitter pill to Hebert and Bencomo, who had, over many months, negotiated large settlements and preserved victims' anonymity while moving toward the day when Nathan Stansbury would formally question the youngsters in order to try for a criminal indictment.

At 62 J. Minos Simon has cultivated a lucrative law practice and garnered no small reputation for controversy along the way. In the 1960s he sued then-Gov. John McKeithen to limit state investigatory powers over labor unions, a case he won in the U.S. Supreme Court. More recently, he successfully defended Plaquemines Parish political boss Chalin Perez on a maze of charges stemming from the family's control of the parish.

Simon's approach to the Gastal suit was driven by a philosophy dramatically different from that of the other settlement attorneys. The latter held to a narrow definition of their clients' best interests: preserve anonymity and go for the insurance companies' deep pocket. Simon was going for the same pocket, only many fathoms deeper. His representation of Gastal rested on a startling premise: Church officials not only had prior knowledge of Gauthe's sexual transgressions but also had long tolerated homosexuality among other clerics in the sprawling diocese. They, in addition to Gauthe, were responsible for damages to the children, Simon held.

"My clients came to me," Simon says, "complaining that their attorneys were putting a tight lid of secrecy not only on the victims but also on

everything the Church did. Here were Church officials, not only guilty, but protected—shielded—by confidentiality placed by their lawyers and Church lawyers. It was easy to protect the children: All you had to do was delete their names but otherwise let all the documents be part of the public record. There were so many children involved, from what [the Gastals] told me. You can't have the whole community and the Church not be aware. That was self-evident. I started an investigative procedure whose goal was to find the facts beyond Gauthe."

In sexual molestation cases, it is common for courts to bar all reporting of minor's names and to delete them from court records, which are otherwise made public as prescribed by law. In response to such a motion by Simon, Judge Marcus Broussard, on Sept. 4, lifted the seal on the Gastal suit, and the allegations against Gilbert Gauthe became a matter of public record for the first time—15 months after his suspension from priestly duties. With facts now known, other media began reporting the story broken by Channel 10 three months earlier. And for the first time, the diocese spoke publicly about Gilbert Gauthe's crimes.

Bishop Frey issued a prepared statement. "From the beginning, I have reached out and offered assistance to those who have been harmed or hurt . . . We should not be shaken in our faith," the statement concluded, "for we know that the spirit helps us in our weakness."

To attorney Paul Hebert, the bishop's statement was too little, too late. The diocese, having balked at his request to canvas altar boy families in July 1983, had, in his view, shirked responsibility. In response to the bishop's statement, the lawyer drafted a letter on behalf of his clients, which ran in *The Daily Advertiser*. It characterized the bishop's statement as "not an accurate and true reflection of what has occurred." The letter continued:

"In fact, although Church leaders were told of this matter over one year and three months ago, this statement from the Bishop is the first expression by the Church as to this tragic and unfortunate situation involving our children, and those of many others. The extent of the sexual abuse by this

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rest and the fact that there were minor children involved was never told to the parents of the victims or the parishioners . . . . It is inaccurate and misleading to attempt to portray to the public that the Church leaders have always made themselves available, as it is more an obligation of going to the parents of all victims and giving them the true information about what happened to their children."

The once-improbable idea of Catholics suing their church had now taken root. Abbeville attorney Anthony Fontana, who declined to be interviewed, filed suits on behalf of four plaintiffs on Oct. 11, 1984. Like Hebert and Bencomo, Fontana is a Roman Catholic. Soon thereafter, Fontana filed two more suits.

Meanwhile, the legal drama shifted to the criminal stage. District Attorney Nathan Stansbury drove to Abbeville, and in a room at the Hebert Sonnier law offices, he sat with a video cameraman, asking questions of 11 young victims. There was no one else present. Stansbury used videotape so that the boys would not have to be questioned directly by the grand jury: He wanted straight answers to painful questions and was dead set against exposing the victims to the ordeal of revealing their terrible injuries to a group of strangers.

After seeing the videotaped testimony, the grand jury returned a 34-count indictment on Oct. 18. Although Gauthe would subsequently admit under oath to numerous acts of sodomy, the grand jury indicted him on only one count of this crime (aggravated rape, sodomy of a child under 12). Successful criminal prosecutions rest on the corroborating testimony of a witness. Grand jury testimony produced only one boy able to say he saw Gauthe sodomize another, and this may be the reason the grand jury indicted him on only one count of the most serious of his alleged crimes. The penalty for aggravated rape carries a sentence of life imprisonment at hard labor.

**Pictures From a Haunted Past**

Eleven of the indictment counts are for pornography involving juveniles. A common practice among pedophiles is an almost documentary-like taking of photos and keeping of journals or diaries, which serve as erotic stimulation. According to Bruce Selcraig, who does research on pedophilia for the U.S. Senate Permanent Subcommittee on Investigations in Washington: "Most pedophiles, when confronted with the existence of photographs, deny it. But in the majority of cases, they've hidden them or shipped them off to another pedophile."

Several pedophile organizations in America send child pornography through the mail. When child pornographer Katherine H. Wilson of Los Angeles was convicted of child pornography, her mailing list numbered 50,000, including many recipients overseas. Another organization known to mail child pornography is the North American Man/Boy Love Association, which openly calls for the abolition of the age of legal sexual consent. Northern law enforcement sources say Gauthe's name appears on the mailing lists of neither of these organizations, but point out that he could have used an alias. *The Times* did not have access

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to the mailing lists of the Louis Carroll Collectors Guild and the Child Sensuality Circle.

Gauthe has denied knowledge of such groups but admitted under oath to receiving child pornography in two "brochures" that came through the mail. " . . . but I have no idea where they came from. And I had no correspondence with them," he said. But how would he have received those "brochures" unless he requested them? How many pornographers would gratuitously send materials to a parish priest in Henry, La.?

Gauthe admitted to having taken hundreds of photographs of his young victims; he said he destroyed them. A search of the rectory several days after Gauthe left did not turn up any pictures. Gauthe may have destroyed the pictures, but to victims and their parents, they are a haunting memory of Gauthe's crimes. Could the photographs still exist? At least one child asked his parents to find the pictures of him and destroy them.

Another unanswered question is who provided Gauthe with the pornographic video tapes he showed youngsters in the rectory. In deposition Gauthe said: "I found out through overhearing that there was a guy in Abbeville, that if you'd bring him a blank tape, well, then you'd come back the next week, and he'd have a film for you. He was in a van in the National food store parking lot. I didn't get his name at all. I gave him \$20 and a blank tape and he recorded it. I was dressed in blue jeans and a pullover shirt." Like the instant snap-

**"This whole neighborhood has a doubt in their minds," says victim's father Glenn Gastal. "The people don't want to face those that's seen the problem . . . It's like a black cloud hanging over you that's just going to fall on you any damn minute."**

shots Gauthe says he took, the video porn has disappeared.

#### Mouton for the Defense

Until the indictment of Gauthe, the Church's legal defense had been limited to the civil damages claims. The diocese had paid for Gauthe's treatment, and now it needed a trial lawyer to defend him on criminal charges. The call went to F. Ray Mouton, 38, a hard-driving man with ample experience in civil damages suits as well as criminal defense.

A Catholic, Mouton was no stranger to high-profile, big-dollar cases that

draw reporters like steel filings to a magnet. He'd won acquittal of policemen accused of brutality and had run unsuccessfully for a local judgeship. Once, while defending an accused drug dealer, Mouton found himself and his client pursued by TV cameras across a parking lot. The attorney hated pictures of people hiding their faces from the media; they suggested guilt. So, lawyer and client cheerfully waved to the cameramen, as if playing a game. Mouton won: The pictures never aired.

Mouton flew to Massachusetts to meet Gauthe for the first time, advising

him to return to Lafayette for arraignment and agree to depositions with plaintiffs' lawyers in the civil suits. "My philosophy was that he should not hide behind the Fifth Amendment," Mouton says. "To do otherwise would have suggested a cover-up of some sort, which made no sense."

News of Gauthe's impending return created a volatile atmosphere in Lafayette. There were telephone death threats to Mouton's office in his absence; other anonymous callers threatened to kill Gauthe.

Mouton and Gauthe flew from Boston to Houston on a late-night flight, accompanied by two Vermilion Parish sheriff's deputies. From Houston they drove in an unmarked car to Lafayette, arriving at 3:45 a.m. on Oct. 24. Gauthe went to a cell in parish prison. At 9 a.m., Mouton brought his client down a back elevator from the cell block and, flanked by police, they entered the courtroom. Gauthe stood before Judge Lucien Bertrand. Mouton entered a plea of not guilty by reason of insanity. The hearing lasted less than three minutes. Gauthe left for the cell block, again by the rear elevator.

Under Louisiana law, the insanity defense revolves around the M'Naghten Rule, under which the test for legal responsibility is restricted to the sole question of whether the defendant, at the time the offense was committed, could discern the difference between right and wrong.

On Oct. 31, police cars arrived at Minos Simon's law offices where

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Gauthe, accompanied by Mouton, answered questions posed by Simon. The process was repeated several days later with Raul Bencomo. Insurance lawyers were present at both depositions.

In his civil pleadings, Bencomo alleged Gauthe seduced his victims in an initiation ring wedded to ritual instruction of the youngsters as altar boys. Mouton filed a written response denying the existence of sex initiation-rings, adding: "No sexual conduct of Gilbert Gauthe was ever associated with his occupation as a parish priest." "Initiation ring," however, was in Bencomo's parlance a psychological, not a religious, term.

While Mouton's denial of the initiation rings seems to serve the Church's arguments, in civil proceedings (as well as in news accounts), that it is not responsible for Gauthe's actions, it is a straightforward criminal defense having little bearing on the damages suits. In essence, Mouton argues that although he was a priest, Gauthe's pedophilia was an addictive illness blurring his mental and moral capabilities: His crimes, in Mouton's defense logic, were those of a man apart from his priestly role. Whether jurors will buy that remains to be seen.

Things were not going well for Gilbert Gauthe. After a year of cloistered treatment in the House of Affirmation, he was in the Lafayette parish prison. An Abbeville woman whose family maintained close ties with Gauthe visited him there, and he asked her for cotton. He wanted to swallow it to commit suicide. He was now face-to-face with the cruel code of prison life, under which murder is pardonable but child molestation is not. Inmates shrieked at him, and at one point the threats caused him to shrivel up in a corner of his cell, scared witless.

Thirty miles away in Vermilion Parish, the child of one aggrieved family slept soundly every night, for the first time in months, secure in the knowledge that Gauthe was behind bars.

Shortly before dawn on Tuesday, Nov. 8, Gauthe left Lafayette for Connecticut on \$250,000 bond—traveling, under court order, with two law enforcement officers to an institution approved by Judge Bertrand. He will remain at the secular psychiatric facility until the criminal trial begins. Mouton agreed to waive extradition and voluntarily return Gauthe on request of the court. When one youngster heard news reports of Gauthe's departure, he became frightened and asked his parents: "How do you know where he is? How do you know he won't come back?"

Media coverage intensified after Simon's depositions with Gauthe and Msgr. Richard Mouton of Abbeville who discussed the 1976 incident in that town, when Gauthe was sent for psychiatric counseling after two parents complained he licked their sons on the cheeks. On Nov. 4, the New Orleans *Times-Picayune/States-Item* a story whose lead paragraph read: "Catholic Church officials knew for almost seven years about the Rev. Gilbert Gauthe's sexual activities with boys at churches in southwest Louisiana, according to two depositions filed this week in a court case."

The report brought a prompt denial

from Ray Mouton: "There is absolutely no evidence which indicates that anyone in the Catholic Church had knowledge that Gilbert Gauthe was sexually involved with any child or children," he contended. He went beyond mere denial, threatening the *Picayune* with a \$40 million libel suit. No suit was filed, but the threat may have had a chilling impact. The New Orleans paper ran mainly wire service copy on the case from then on.

*The Times* asked attorney Mouton about the libel suit threat. "The evidence," said the lawyer, "quoted in [*The Picayune*] article did not exist when he wrote it." Asked about such evidence now, Mouton replied: "I have nothing to say about that."

Although the *Daily Advertiser* covered legal developments as they occurred, there was no investigative attempt. *The Times* ran two stories on the case, but ceased continuing coverage and began preparing its in-depth report. Channel 10, and to a lesser degree other broadcast media, followed the legal hearings in the civil cases.

#### Crusade of Persecution?

When Minos Simon took over the Campbell's suit, he added as defendants Pope John Paul II, Archbishop Philip Hannan of New Orleans, Bishop Frey and various insurers. Suing the pope wins few admirers in a Catholic region, but Simon calls the action "merely a legal technicality," related to being able to set aside Campbell's original settlement agreement in which he agreed to take no further action against the Church. The pontiff has since been dropped from the suit.

In January, things got even hotter in the civil litigation. Simon filed a contempt motion against attorney Hebert for not providing him with sealed records from his settlements. Judge Bradford Ware dismissed the charges, saying Hebert had not been properly served notice, and ordered Simon to pay Raul Bencomo \$1,500 in attorney's fees for Hebert's defense.

Two weeks ago, Judge Byron Hebert (no relation) dismissed Simon's attempt to revoke Campbell's portion of his settlement.

As part of the legal skirmishing, Simon has also filed malpractice charges against the Hebert Sonner firm, alleging that Hebert misled the Campbells regarding their right to individual redress. "We worked diligently for the Campbells," says Hebert. "I think the malpractice claim is inappropriate and misguided."

But the brunt of Simon's legal charge was borne by the Church. He gave television interviews accusing the diocese of engaging in a cover-up. These statements, coupled with suing the pope and suing Hebert created something of a spectacle. In reality, though, Simon had embarked on a powerful move against the insurance companies in what is known as discovery.

Before damage claims are actually tried in court, lawyers question prospective witnesses, gathering facts for later use as trial testimony. Gauthe's depositions—like those of Church officials—were part of the discovery process. Discovery questions often result in court hearings in which a judge will rule on the scope of questions—the limits to which an attorney may go in

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his probe for discoverable evidence.

In Simon's hands, the law is like a foil in the grip of a fencer: thrust, parry, and push relentlessly until the opponent drops his guard. When he began his discovery in the Gastal case last January, Simon had obtained sensitive information from inside the diocese—including allegations which, if proven true, held potentially disastrous implications for the Church. Armed with this information, he filed a motion requesting sensitive personnel documents, records of Immaculata Seminary and private files on 27 priests, listed by name. These documents, he said, would disclose conditions "including homosexuality, homosexual tendencies, and sexual aberrations . . . (from) 1970 through 1985." The Church showed marked resistance to Simon's inquiries.

On Jan. 3, Judge Bradford Ware presided over a hearing in Abbeville aimed at compelling the Church to answer written questions by Simon about homosexual clergy. At that hearing, no insurance lawyer was present. Ware issued an order requiring the Church to answer the questions. Simon filed a motion to hold the Church in contempt of court. He also wrote two letters to Church insurers attorney Robert Leake, demanding answers. Simon says Leake never answered the letters. Leake did not return calls from *The Times*.

On Jan. 18, Bishop Frey and Msgr. Larroque arrived at Simon's office, accompanied by lawyers, to answer Simon's questions in deposition. Bishop Frey, who went first, said he had none of the requested documents. "Is it because they don't exist?" Simon asked. "or because they were otherwise produced?" "Well," stated the bishop, "I assume that Msgr. Larroque was the one who was asked to bring the documents, which he did." But when Msgr. Larroque's turn came, he told Simon he assumed "counsel took care of it." Attorney Leake, however, did not have the documents either. Simon filed another contempt motion.

Simon and Leake squared off in the Abbeville courtroom on March 12 over the disputed Church records. In style and bearing, the two men differed as vividly as their legal positions—Leake, the courtly New Orleanian with a stamp of elegance to his cast; Simon, the barrel-chested Cajun, battling for discovery. "The failure is self-evident," Simon charged. Leake

# The Church has apparently agreed to accept legal responsibilities for damages from Gauthé's crimes. The question is why did Church lawyers wait so long to make this move?

called Simon's demands "a hunting license to pour through records that might exist. Whether they exist, I can't say. Where is the legitimacy? The inquiry into private lives unrelated to Gauthé does not seem to us appropriate."

"We wouldn't be here today," the judge said, "if attorneys for the defendants had been in court in January." Simon added, "I submit there can't be a clearer case of contempt." Ware took the matter under advisement.

They were back in Abbeville on April 8, arguing over the files. Leake said disclosure "would violate separation of Church and state." Simon rebutted: "We deal here with a violation of secular law, and Church immunity does not apply. Once you get into that arena, all parties stand on equal footing."

Ware's response telegraphed a warning to Leake: "I don't think the Church is entitled to any privilege. Relevancy is the key word."

Simon hammered away: "What is the risk involved in this litigation? The sexual conduct of priests: This is the risk-creating factor resulting in harm to [the Gastal's] minor son. We believe those records will disclose instances of homosexuality that have gone on for the last 12 to 15 years. We must establish the existence [of homosexuality], hence the risk factor. They failed to create a safeguard and let [molestation] proceed with full knowledge."

Leake attacked the list of 27 priests on whom Simon was asking information as "indictment by innuendo," but Ware was unmoved. The judge asked

Simon for a written brief, a move giving Leake time to ponder his options. But those were few, and time was running out. "I still have not heard why [defense lawyers] did not come forth in January regarding Mr. Simon's interrogatories," Ware said. "It rather aggravates me that the Church has taken this position."

"Evidently, we had too many lawyers working the case," Leake replied. "Some knew about it; others didn't. Otherwise, I can only apologize to the court."

Judge Ware eventually ruled that the Church must turn over documents relating to sexual molestation of children, but not to homosexuality per se.

Behind the argument over the disputed files lay serious problems for Leake's clients. The real issue was whether or not the Church should stipulate to liability—that is, should the Church formally admit that it bore responsibility, through its policies, for damages to children and families victimized by Gilbert Gauthé?

A source within the Church told *The Times* that the diocese paid \$500,000 of the \$4.2-million settlement to the nine original claimants last June. But those negotiations were not based on a stipulation of liability. The parties agreed to pay, without admitting that the Church itself was at fault for what Gauthé did.

With Simon alleging widespread homosexuality and a cover-up that allowed Gauthé to continue molesting children, the question of the Church's liability advanced to center stage. If, as settlement attorney Paul Hebert

claims, Gauthé's victims "could well exceed 70 children" Leake's clients faced a sizable risk: How many more victims were out there who could file more suits? If the lawyer turned over Church files to Simon, would those records divulge information that the Church failed to take proper safeguards, thereby making the institution more vulnerable to liability charges?

What if, as Simon alleged, the documents divulged other instances of pedophilia by priests? Turning over such a stone could create new legal problems. The disputed files might form the basis for a larger legal thrust, one resembling a class-action suit. Such an action could mean much higher damages claims.

The most expedient way to block Simon from getting the sensitive Church documents the court had ordered released would be to stipulate to liability. In early April, the defense informed Simon it would do just that. As *The Times* went to press, the wording of that agreement had not been worked out. But Simon said: "I got a call three days ago from a lawyer in New Orleans telling me everything was on go; they were just waiting to hear from various entities."

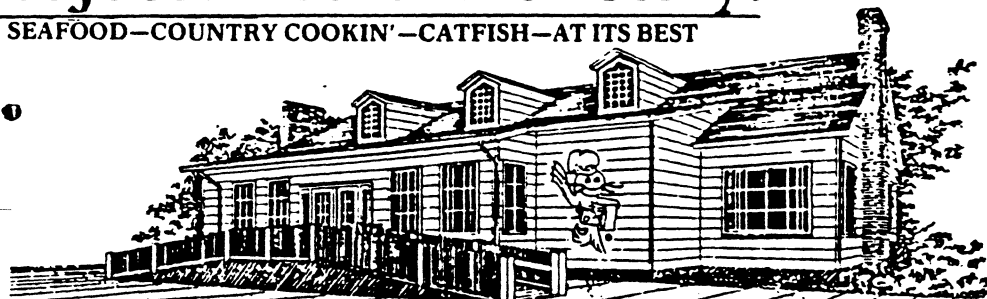
The Church delay in accepting liability may have cut its potential losses. Last year a new state law went into effect limiting the time during which a person may file a civil damages suit to one year after the injury is sustained. The last of the original settlements negotiated by attorneys Hebert and Bencomo were signed almost one year ago, June 27, 1984. It was only after these settlements that the Gauthé matter became public knowledge.

A crucial question in the application of the new law will be when the year to which the filing period is limited begins. The question is—would the year of limitation for Gauthé's victims begin when the boys were molested or when the parents learned of the crimes? Would it be too late, then, for any of Gauthé's victims who have not yet come forward to file suit? The new law has yet to be tested in the courts.

Whether or not any of Gauthé's victims who have turned 18 can seek legal redress may also be the subject of future legal wrangling. Other provisions of the new law may be interpreted as making it difficult for those who have reached the age of majority to sue for injuries sustained as minors.

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Whether or not older victims are precluded from suing would be of great importance to limiting the number of potential claims if the number of Gauthé's victims is as great as some suspect.

Legal responsibility to the victims aside, what is the moral responsibility of the Church? In his letter to *The Times* quoted last week, diocesan attorney Bob Wright stated that the Church "will continue to do all things possible, both legally and morally, to rectify—mitigate any damages." Does that mean offering therapy to the older victims? If so, what steps are underway to locate them and extend the pastoral hand?

What, finally, does "stipulation of liability" mean on the human level—to victims who are now plaintiffs, their families and to Catholics of the diocese? The Church appears to have two legal options before it. One is to negotiate out-of-court settlements with Simon, Hebert and Bencomo, and Abbeville lawyer Anthony Fontana in the 11 suits pending. Settlements would avert jury trials and continuing news coverage damaging to the diocese. But given the previously negotiated settlements, that course could well prove more expensive than trials, particularly if Catholic jurors balk at awarding settlements in the hundreds of thousands of dollars.

By all indications, the decision as to what legal course to pursue is out of the hands of Bishop Frey. Insurance lawyers have called the shots to date: Nothing suggests the chain of command will change.

Meanwhile, tentative trial dates have been set for September for the Hebert and Bencomo cases. Trials will mean testimony by children, or by psychoanalysts, stating the magnitude of damage to the victims. Whether the boys will testify is a decision each plaintiff's lawyer must face. Testimony by the young victims may well be a powerful appeal for monetary damages, but at what price to the boys?

The literature on testimony of pedophilia victims is replete with references to the potential harm incurred by youngsters forced to relive their haunted memories in testimony before a jury. Youngsters who have been sexually molested are in a position of profound vulnerability. Defense lawyers, faced with an emotionally fragile witness can pound away with one goal in mind: reduce the amount of dollars

a child's agony is worth.

#### A Question of Canon Law

Throughout the months of criminal and civil proceedings, a shadow-story of religious law has flickered on the edge of this tragedy. For centuries, the Catholic Church has been guided by its own legal system, known as canon law. In 1983, the first translation from Latin to English appeared. As the constitution of the Church, canon law has undergone revisions through the centuries; its sections define the range of Church administration.

And while much of the code defines the duties of clergy to their superiors, the standard of stewardship—the obligations incumbent on those in high office—is also explained in considerable depth.

According to canon law all power devolves from the Pope; however, in the delegation of authority, each bishop has wide latitude to decide what he believes best, or in disciplinary questions, deems just.

In his deposition with Minos Simon, Msgr. Larroque, the diocesan vicar general and a specialist in canon law, discussed Church practice under the code. A brief passage in Larroque's deposition raises a curtain on the inner sanctum of Church judicial policy and a ritual unknown to laymen. There, he explained, "a formal [investigative] procedure . . . a Church court. The membership is composed of [priests who serve as] judges, defenders, advocates. They determine the facts. The penalty would usually be determined by statement in the law. The bishop sets up the court, which acts for the bishop."

No Church court was convened in the case of Gilbert Gauthé, who was suspended, Larroque said, "on the basis of two children." Larroque told Simon, "I have been in office since 1965, and to the best of my knowledge there has never been a formal investigation, judicial procedure."

Larroque's statement raises hard questions about canonical proceedings in the Lafayette diocese. Why wasn't Gauthé called before a Church court? The Church's own legal system, rooted in centuries of law, requires obedience by priests to their superiors and has sweeping discovery powers of its own. The use of those legal powers under the canonical code is at issue here, because Gilbert Gauthé was not the only diocesan priest who molested boys. □

End of Part II

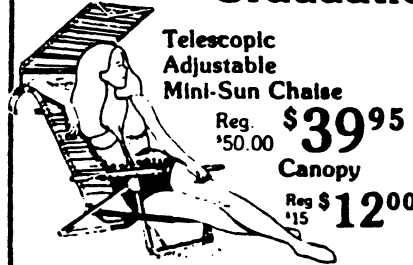
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