

HOUDINI LAWYER SHADOWS CARDINAL MAHONY

U.S. Attorney Thomas P. O'Brien has launched a federal grand jury investigation against the Los Angeles Archdiocese claiming it violated the federal "honest services" fraud law when dealing with clergy abuse.

In 2007, Los Angeles Archbishop Roger M. Mahony reached a settlement with alleged victims of priestly misconduct, thinking the issue was over. But with this investigation, the issue was resurrected by the Houdini-like tactics of O'Brien. He subpoenaed 22 priests, notwithstanding the fact that two of them are dead and the rest were kicked out of the priesthood a long time ago.

O'Brien claimed that there was a cover-up of abusing priests, and as a result parishioners were denied so-called "honest services." So novel is this use of the law that this is the first time it has ever been used against a church; it is typically used against politicians and CEOs. But O'Brien isn't like most lawyers. He has tried to court martial a Marine about an incident in Iraq even though the accused was no longer a reservist; he then tried to get the Marine in civilian court—another first—and again he failed. He has also tried to nail a woman for a crime usually committed by computer hackers (she was acquitted of all the felony charges against her and the rest of the case may be dismissed).

It is no wonder O'Brien was scorned by his profession. Northwestern law professor Albert Alschuler said, "This is a strange one." An editorial in the *Los Angeles Times* opined, "We worry about the elasticity of the law." Loyola law school professor Laurie Levenson called it "creative lawyering," and Rebecca Lonergan, a USC law professor, similarly dubbed it "creative." Catholic law professor Nick Cafardi said that the

lawsuit is “a real stretch” and Notre Dame law professor G. Robert Blakely branded it “outrageous.”

We called on O’Brien to drop his witch hunt and to read a book on ethics.