

UPDATE 45

Royal Commission Wollongong Gerard Nestor

Sydney



Wednesday 24 June 2014 – Day 2

Day two of the Royal Commission's examination of the Fr. John Nestor case in Wollongong continued in Sydney today with former bishop, Philip Wilson continuing his evidence dealing with the years he spent trying to have Nestor dismissed as a priest.

Archbishop Wilson was asked about the structure of the Holy See and the apparent confusion prior to 2001 between the responsibilities of the Congregation for the Clergy (CFC) in Rome and the Congregation for the Doctrine of the Faith (CDF) in relation to clergy accused of child sexual abuse.

Archbishop Wilson, having stood Nestor down in 1998, told the Commission that he had been required to wait for the outcome of Nestor's recourse to the CFC before he could take any further action. In December 2000 the CFC decided the matter in favour of Nestor, directing that he be reinstated.

Archbishop Wilson told the Commission that he felt bound in conscience to his duty to protect children, and had always been prepared to appeal to the Apostolic Signatura, the equivalent of the Vatican's Supreme Court, and the Pope, had the decision of the CFC gone against him.

He said with all he had learnt from his investigations, he could not in conscience allow Nestor to return to ministry.

The appeal of the CFC decision to the Apostolic Signatura succeeded in 2006, and in 2009 the CDF removed Nestor from the priesthood.

In examination by counsel for the Wollongong Diocese and TJHC, Jane Needham SC, Archbishop Wilson said that canon law does not impose restrictions on people fulfilling obligations under civil law.

He said the release in 2001 of *Sacramentorum Sanctitatis Tutela* had clarified that the CDF rather than the CFC should have jurisdiction in matters involving child sexual abuse. It also provided clear procedures to be followed regarding applications to have priest dismissed, which had been less clear when he had commenced his process in 1997.

When these procedures were applied in Nestor's case, the CDF returned a prompt decision dismissing Nestor from the priesthood. This decision had accepted evidence which included the outcomes of investigations under Australian civil law, (the Ombudsman Act), Australian church procedure (*Towards Healing*), and canon law.

The Chair asked Archbishop Wilson about confessional secrecy, and the potential conflict between knowledge given to a priest and an obligation to report knowledge about certain crimes to the authorities.

Archbishop Wilson acknowledged the issue. He told the Commission that confessional secrecy is one of the highest values that governs the ministry of priests in the Catholic Church and this was not something that people were willing to change.

He was however open to the idea that there might be academic discussion around the topic within the church.

He reinforced to the Commission such was his conviction about Nestor not being a suitable person to work in ministry with children, that had his appeal to the Signatura been unsuccessful, he would have appealed to the Pope, and if necessary resigned as a Bishop rather than reinstate him.

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