

UPDATE 47

Royal Commission Wollongong Gerard Nestor

Sydney



Friday 27 June 2014 – Day 4

Bishop Peter Ingham, Bishop of Wollongong continued giving evidence on day 4 of the Royal Commission's hearing into the case of John Gerard Nestor.

The evidence went to the processes that were followed in forwarding the case to the Congregation for the Defence of the Faith (CDF) and the subsequent decision of Pope Benedict on 17 October 2008 to dismiss Nestor from the priesthood.

The responsibility to notify Nestor and others of the decision of the Holy Father fell to Bishop Ingham, who also informed priests in the Wollongong Diocese and people involved in the case, including victims. But Bishop Ingham decided not to publicise the decision more broadly.

When asked if it would have been safer to notify the public, Bishop Ingham said he wasn't sure how Nestor would respond, and that the matter had been off the public radar for some time.

Bishop Peter Comensoli then took the stand. Bishop Comensoli is Apostolic Administrator of the Archdiocese of Sydney. While he was a priest in Wollongong, he was chancellor in the Diocese from September 2000 to July 2006.

Bishop Comensoli was asked about the processes the Diocese put in place to ensure the Diocese complied with the new laws in NSW requiring notification to the Ombudsman's office of allegations of sexual assault of children.

He said there was regular contact with the Ombudsman and the Catholic Commission for Employment Relations. Workshops were run in the Dioceses about who needed to sign employment declarations and so on around the new legislation. Workshops were also held for clergy and principals in the schools, including international speakers on child protection.

Bishop Comensoli learned in March 2006 that Fr Nestor had returned to Australia, which prompted the Diocese to consider its obligations under the Ombudsman Act.

Counsel Assisting drew Bishop Comensoli's attention to Nestor's submission to the Congregation for the Clergy (which was a document that had never been provided to Bishops Wilson or Ingham) in which Nestor claimed that, in connection with his application for a bus drivers licence in NSW, he had obtained from the authorities in NSW a clearance to work with children. Counsel Assisting said that enquiries made by the Royal Commission had confirmed that Nestor's application would have involved a police check only, not a working with children check.

Sr Moya Hanlen gave evidence that she became Chancellor of the Diocese of Wollongong after Fr Comensoli. She holds a licentiate in Canon Law, which she obtained through studies in Canada. She is the child protection delegate for the Diocese and as such ensures the Bishop complies with the Ombudsman Act.

After seeking advice, she determined that the Nestor matter came under the jurisdiction of the Ombudsman's office. Her view was subsequently confirmed by the Ombudsman's office which said that the allegations against Fr Nestor were reportable under the Act.

Sister Hanlen's attention was drawn to the 2003 version of Sacramentorum Sanctitatis Tutela (SST) which in Art 25 says that the judicial trial cases with which SST deals are subject to the pontifical secret. Sister Hanlen was asked by the Royal Commission of her understanding of the pontifical secret. She replied that the secrecy obligation related to all details of a judicial trial case which were not known in the public arena.

Sister Hanlen in her second written statement to the Royal Commission had referred to three other cases involving CDF action against a priest of the diocese with which she had been involved while chancellor. In response to questions from Counsel Assisting she elaborated on these cases.

Justice McClellan, in questions to Sister Hanlen, explored with her the extent to which the jurisprudence of the CDF and the Apostolic Signatura relating to action against priests could become known within the broader Church.

The final witness was **Father Bryan Jones** who had been Administrator of the Diocese in the interregnum between Bishop Wilson and Bishop Ingham. Fr Jones in his evidence spoke about the difficult position he found himself in following the decision of the Congregation for the Clergy to uphold Fr Nestor's recourse to it against Bishop Wilson's decrees and pending the appeal to the Apostolic Signatura. That appeal had not been formally instituted before Bishop Wilson left the Diocese to take up his appointment as Archbishop of Adelaide. Fr Jones said that it was of absolute importance for the Church in Australia's commitment to *Towards Healing* for the appeal to be made the Apostolic Signatura.

The hearing has now concluded. A timetable is to be agreed between Counsel Assisting and counsel for the Truth Justice and Healing Council for the lodgement of written submissions.

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