

4.65 Archbishop Connell was one of the first bishops in the world to initiate canonical trials in the modern era. He did so in relation to two priests Fr Bill Carney in 1990 (Chapter 28) and Fr Jovito\* (Chapter 19) in 1992. A canonical trial was also held in the case of Fr Patrick Maguire (Chapter 16); this was initiated by his religious society in 1999. The canonical penal process is governed by canons 1717 – 1728.

4.66 The Fr Jovito case revealed the degree of tension that existed in the Archdiocese as to how an Archbishop should proceed in the event of attempting to dismiss a priest from the diocese. The chancellor of the time, Monsignor Stenson, had different views to those of the previous chancellor, Monsignor Sheehy. The latter felt it was inappropriate to commence a penal process at all and deprecated the fact that it was indicated to Fr Jovito that, if he did not resign from the priesthood, there would be a penal process. When difficulties with Rome later emerged, Monsignor Sheehy attempted to blame Monsignor Stenson whom he said was perceived by Fr Jovito as “*an adversary who was determined to keep him out of the priesthood*”.

4.67 Both these men were eminent canonists and both were of the view that Fr Jovito was unsuitable for the priesthood because of his proclivities. However, their views on how he should be treated diverged dramatically. The Commission notes their inability to work together to prevent this case becoming, which it did, a major embarrassment and scandal for the diocese. It would have to be said that the reluctance to work together was more on Monsignor Sheehy’s part. He was firmly of the view that Fr Jovito should not be suspended and that he could be persuaded to leave the priesthood. Monsignor Sheehy saw himself as a canonical advisor to Fr Jovito. Cardinal Connell told the Commission that, even though Monsignor Sheehy was a

brilliant man, *“I did not deal with sex abuse cases with him because I think his views on the way these matters should be dealt with would not have been in accordance with my views”*.

4.68 Given Fr Jovito’s history, the Commission considers Monsignor Sheehy to have been misguided in his views and more concerned with avoiding scandal than understanding the impact of Fr Jovito’s actions on those he had abused.

4.72 Once the judges heard the evidence, they then issued their determination. The decision can be appealed. In respect of the two Dublin Archdiocese canonical trials (those of Fr Carney and Fr Jovito), Fr Carney, who did not attend the trial, accepted the determination that he be dismissed from the clerical state. Fr Jovito appealed the decision to Rome. Overall, it seems to the Commission that these two trials were conducted carefully and

diligently. Rome accepted that the methodology employed in the case of Fr Jovito was correct.

4.74 In the Fr Jovito case, matters became quite complex after the trial. Fr Jovito's appeal to Rome against his dismissal was partially successful in that Rome declared that, instead of dismissal from the clerical state, he should be required to stay in a monastery for a period of ten years. The implementation of this decision by the Dublin Archdiocese proved impossible as it appeared that no monastery was prepared to have Fr Jovito in view of his background.

4.75 The decision of the diocesan canonical tribunal was given in August 1993. It was appealed in October 1993. A decision to commute the penalty was made in June 1994. In the interval, Fr Jovito committed one of the crimes for which he was subsequently convicted. The Archdiocese then began the process of a direct appeal to the Pope. Cardinal Connell told the Commission that he contacted a senior member of the Curia in Rome about the matter and the case was referred to the Pope. In January 1996, Fr Jovito was dismissed from the clerical state by decision of the Pope. This option of dismissing a priest directly by the Pope is reserved for grave and clear cases and is regarded as an extraordinary remedy, even when the normal penal process is inadequate.

4.76 The Commission recognises Fr Jovito's right to appeal the decision of the diocesan tribunal to Rome under canon law, but the handling of that appeal in Rome was unsatisfactory. The fact that the original decision of dismissal was replaced with a sentence that would have confined Fr Jovito to a monastery for ten years, suggests that after the ten-year period, Fr Jovito might have been entitled to resume his clerical ministry.

4.77 The whole process was unduly cumbersome and at one stage it was suggested to the Archbishop that he should start all over again and initiate a new canonical process.

4.80 In the case of Fr Maguire, because he was a Columban priest, it clearly was easier for the order to facilitate the decree from Rome as they could accept him into one of their houses where they could monitor him and supervise him. As in the Fr Jovito case, a major factor in Rome's decision appears to have been the lack of the imputability by reason of paedophilia.