

chose not to appear, the diocesan Professional Standards Board recommended to the bishop that the plaintiffs be deposed from holy orders. Before the bishop could act on the recommendation, the plaintiffs commenced proceedings in the New South Wales Supreme Court alleging procedural unfairness and claiming, *inter alia*, that they were entitled to bring proceedings in the Supreme Court because they were seeking to protect rights as employees or rights accrued under a consensual compact that constituted the basis for their offices as clergy. The court acknowledged the long-held view that clergy were office-holders rather than employees. It was held, however, that the mere fact that the plaintiffs were clergy did not entitle the court to proceed upon a presumption that no contract of employment existed. The court acknowledged the importance of the issue of control. Although the plaintiffs had clear terms setting out their remuneration and holiday entitlements, there was no evidence from which the court could gauge what, if any, level of control or supervision was exercised over them. There was no adequate evidence to support the contention that the plaintiffs performed their roles pursuant to a contract of employment. Further, there were no contractual rights arising out of the National Constitution on which the plaintiffs could rely to invoke the court's jurisdiction. Contractual rights making the plaintiffs' claims justiciable did arise out of the Professional Standards Ordinance passed by the diocesan synod, which set down the procedure for dealing with allegations of sexual misconduct, although the allegations of procedural unfairness made by the plaintiffs were not substantiated. The proceedings were dismissed. [RA]

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Re Holy Trinity, Hurstpierpoint

Chichester Consistory Court: Hill Ch, April 2012

Re-ordering – incumbent – vacancy

A number of parishioners objected to the granting of a petition for the substantial re-ordering of this Grade II* listed church *inter alia* on the ground that the project should be reconsidered after the imminent retirement of the current incumbent. In granting the faculty, the chancellor rejected this ground, stating that, although the incumbent was the chairman on the PCC, the paradigm in every parish is collaborative ministry. He did not consider that the forthcoming vacancy and the appointment of a new incumbent was a valid or relevant consideration. [RA]

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