

ITEM 74 | RIGHTS OF ECCLESIASTICAL TRIBUNALS

Many of our deliberative assemblies are ecclesiastical bodies, and it is important to know how much respect will be paid to their decisions by the civil courts.

A church became divided, and each party claimed to be the church, and therefore entitled to the church property. The case was taken into the civil courts, and finally, on appeal, to the U.S. Supreme Court, which, after holding the case under advisement for a year, sustained the decision of the U.S. Circuit Court. The Supreme Court, in rendering its decision, laid down the broad principle that when a local church is but a part of a large and more general organization or denomination, the court will accept as final the decision of the highest ecclesiastical tribunal to which the case has been carried within that general church organization, on all questions of discipline, faith, or ecclesiastical rule, custom, or law, and will not inquire into the justice or injustice of its decree as between the parties before it. The officers, the ministers, the members, or the church body which the highest judiciary of the denomination recognizes, the court will recognize. Whom that body expels or cuts off, the court will hold to be no longer members of that church. The court laid down the following principles:¹

"Where a church is of a strictly congregational or independent organization, and the property held by it has no trust attached to it, its right to the use of the property must be determined by the ordinary principles which govern ordinary associations.

"Where the local congregation is itself a member of a much larger and more important religious organization and is under its government and control and is bound by its orders and judgments, its decisions are final and binding on legal tribunals.

"Courts having no ecclesiastical jurisdiction, cannot revise or question ordinary acts of church discipline; their only judicial power arises from the conflicting claims of the parties to the church property and the use of it."

But while the civil courts have no ecclesiastical jurisdiction, and cannot revise or question ordinary acts of church discipline, they do have jurisdiction where there are conflicting claims to

church property. An independent church by an almost unanimous vote decided to unite with another independent church. A very small minority, less than ten per cent, did not wish to unite with the other church, so they were voted letters of dismission to any other church of like faith and order, against their protest. The majority then directed the trustees to transfer their property to the other church and voted themselves a letter of dismission to unite with that church. The church then voted to disband. The majority presented their letters and were received into the other church. The minority would not use their letters, but took the matter into the courts, which, of course, decided that they were the church and owned the property. According to the practice of churches of the same denomination, no member can be forced out of the church unless for neglect of his duties as a member. Letters of dismission are granted only on the request of members, and as a general rule the membership does not terminate until the letter has been used. The church could not terminate the membership of the minority, against whom there were no charges, by voting them letters without their consent. By not using their letters they soon constituted the entire membership and rescinded the order to the trustees to transfer the property to the other church. By the hasty, ill-advised action of almost the entire church the majority lost their property. In cases where property is involved, churches cannot be too careful, and it is usually best to act under legal advice.

Footnotes

¹ Watson Vs. Jones, 13 Wallace U.S. Supreme Court Reports, p. 679. This case was decided April 15, 1872.

