Constitutional Guidelines for Civil Court Resolution of Property Disputes Arising from Religious Schism

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other Code states since it involves interpretation of a uniform law.\textsuperscript{37} Courts in these states, however, may choose to limit the effects of the holding by strictly limiting the case to its own facts. Indeed, the court stated that the logic of the holding may apply only in a few instances.\textsuperscript{38} Unfortunately, since most forged indorsements are not restrictive in nature, the courts inclined to uphold as a matter of policy a direct cause of action by a drawer against a depositary bank are in most cases left without an acceptable theory of justification in the Code.

\textit{Neil E. Sprague}

\section*{CONSTITUTIONAL GUIDELINES FOR CIVIL COURT RESOLUTION OF PROPERTY DISPUTES ARISING FROM RELIGIOUS SCHISM

\textit{Jones v. Wolf}\textsuperscript{1}

The Vineville Presbyterian Church (VPC) of Macon, Georgia, was organized and affiliated with the Augusta-Macon Presbytery of the Presbyterian Church in the United States (PCUS) in 1904. The congregation purchased property in Macon upon which it built a meeting house. In 1973 the congregation voted, 164-94, to leave the PCUS. After notifying the PCUS of this decision, the majority affiliated with the Presbyterian Church in America, a separate denomination. The PCUS promptly excommunicated the members of the majority faction and declared the minority "the true congregation of the [VPC]."\textsuperscript{2} The PCUS further decreed that the majority had "forfeited ... all rights to the property of the congregation."\textsuperscript{3} The majority ignored this finding and retained possession of the meeting house property. The minority sought declaratory and injunctive relief in federal court to establish its exclusive right to the property on the basis of the PCUS decree. The complaint was dismissed for lack of jurisdiction.\textsuperscript{4}

\textsuperscript{37} See Foxco Indus., Ltd. v. Fabric World, Inc., 595 F.2d 976, 982 (5th Cir. 1979).
\textsuperscript{38} 46 N.Y.2d at 466, 386 N.E.2d at 1322, 414 N.Y.S.2d at 301.
\textsuperscript{1} 99 S. Ct. 3020 (1979).
\textsuperscript{2} Lucas v. Hope, 515 F.2d 234, 235 (5th Cir. 1975), cert. denied, 424 U.S. 967 (1976).
\textsuperscript{3} Id.
\textsuperscript{4} Id.
Shortly thereafter the minority sought relief in a Georgia court on the basis of the PCUS decree. Under Georgia law, however, disputes over church property are not resolved simply by enforcing the decision of the authorized tribunal within the church hierarchy. Instead, a claimant must show that there is an express provision in the deed to the property, the corporate charter of the congregation, or the constitution of the general church which provides that upon schism, the property is to be held in trust for the claimant or the entity under which the claimant derives his purported interest. If such provision is not present, the property is awarded on the basis of legal title, regardless of the nature of the affiliation with the hierarchy. The Georgia court found no provision for such an interest in the PCUS, which was not a party to the suit. The court awarded the property, which had been conveyed to the “Trustees of Vineville Presbyterian Church,” to the majority faction of the VPC, without explanation of why that faction rather than the minority held title. The Supreme Court of Georgia affirmed and the Supreme Court of the United States granted certiorari.

In a five to four decision the Supreme Court refused to require that state courts enforce the determination of the appropriate ecclesiastical tribunal in all disputes over control of church property. The Court held that the states may use any method of resolving church property disputes which meets the requirements of a new, two-part constitutional test. In particular, the Court stated that a method used in resolving church property disputes, generally referred to as the “neutral principles” approach, satisfied this new two-part test. It noted that in applying the neutral principles approach, the Georgia court appeared to adopt a presumption, ordinarily applied when a non-profit corporation is at odds internally, that a majority of its members represent the corporation. Because adop-


6. See cases cited note 5 supra.


8. 99 S. Ct. at 3022.


11. 99 S. Ct. at 3026.

12. Id. at 3025, 3027. For a general discussion of the neutral principles approach, see text accompanying notes 68-70 infra.


14. 99 S. Ct. at 3027. The Court noted that the majoritarian presumption would not violate its newly pronounced constitutional test for resolution of church property disputes. Id.
tion of the majoritarian presumption is an issue of state law,\textsuperscript{15} and it could not be determined whether the Georgia court had adopted such a presumption, the judgment was vacated and the case remanded for determination of the law of Georgia.

Historically,\textsuperscript{16} federal courts\textsuperscript{17} and a majority of state courts\textsuperscript{18} have resolved church property disputes by following the approach taken in the seminal case of \textit{Watson v. Jones}.\textsuperscript{19} In \textit{Watson}, the United States Supreme Court held that a civil court should defer its decision to the resolution of the dispute reached by an authoritative tribunal within the church.\textsuperscript{20} Later, after the incorporation of the first amendment religion clauses against the states,\textsuperscript{21} the Supreme Court did not require the states to follow the deference approach,\textsuperscript{22} although several commentators\textsuperscript{23} have inter-

\textsuperscript{15} Id. at 3029.


\textsuperscript{17} See Gonzalez v. Roman Catholic Archbishop, 280 U.S. 1 (1929); Bouldin v. Alexander, 82 U.S. (15 Wall.) 131 (1872); Watson v. Jones, 80 U.S. (15 Wall.) 679 (1872); Brundage v. Deardorff, 55 F. 889 (N.D. Ohio 1893), aff’d, 92 F. 214 (6th Cir. 1899). These cases were decided before the “federal common law” was abandoned in Erie R.R. v. Tompkins, 304 U.S. 64 (1938).


\textsuperscript{19} 80 U.S. (13 Wall.) 679 (1872).

\textsuperscript{20} Although informed by first amendment considerations, \textit{Watson} was decided under federal common law and thus was never binding upon the states. See Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 710-11 (1976); Presbyterian Church v. Mary Elizabeth Blue Hull Presbyterian Church, 393 U.S. 440, 447 (1969); Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 116 (1952).


\textsuperscript{22} See cases cited note 20 supra. See also Maryland & Virginia Eldership v. Church of God, Inc., 396 U.S. 367, 368 (1970) (Brennan, J., concurring).

preted a later case, *Serbian Eastern Orthodox Diocese v. Milivojevich*,

as requiring deference. The Court did hold, however, that the Constitution

"severely" restricts the role that civil courts may play in resolving church

property disputes. As the misunderstandings over *Serbian* suggest, the

exact nature of these restrictions was not clear. The holding in *Jones*

is significant because it is the first time the Court has clearly set out the

limitations placed upon the states in handling church property disputes.

The first part of the test announced in *Jones* requires that if a civil

court makes the resolution of a church property dispute turn on a con-

troverted matter of religious doctrine or practice, then the court must

resort for decision of that issue to the decision reached by the church’s

authoritative tribunals. The difference between this requirement and the

rule in *Watson* is that *Watson* required deference to the ultimate resolution

of the dispute, while *Jones* only requires deference for certain issues reached

in the course of arriving at the ultimate resolution of the dispute.

Under the *Jones* test, one challenging a civil court’s action must show

that the civil court resolved a "religious" controversy. The Court has not

precisely defined religious controversy, but in past decisions has provided

considerable guidance in identifying religious matters. In *Presbyterian

Church v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, the

Court held that a civil court’s resolution of issues concerning church

doctrine, such as whether the PCUS had adhered to its original theology,

is impermissible. In *Serbian*, the Court held that the constitutional restric-
tion on civil court resolution of religious disputes also applied to matters of internal discipline, organization, and procedure. Matters such as the allocation of power within the church, the credentials of the clergy, and the status of members in fellowship are clearly included in the *Serbian* prohibition.

The holding in *Serbian* went further than prior Supreme Court hold-
ings in placing restrictions on civil court resolution of church property

disputes. Under *Watson*, civil courts could refuse to enforce the church’s decision in cases of fraud, collusion, or where the tribunal had so deviated

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26. 99 S. Ct. at 3025.
28. *Id.* at 449-50. The offensive findings concerning church doctrine made by the civil court in *Presbyterian* were that the church was "making pronounce-
ments and recommendations concerning civil, economic, social and political mat-
ters" and "that the general church has . . . made pronouncements in matters
involving international issues such as the Vietnam conflict." *Id.* at 442 n.1.
30. *Id.* at 708, 722-23.
31. *Id.* at 709.
32. *Id.* at 713-14.
from church regulations as to have acted arbitrarily. In 

Serbian, the Eastern Orthodox Church had stripped Milivojevich, a subordinate figure in the church, of his bishopric. Milivojevich filed suit in state court to enjoin those ordained in his place from interfering with the assets of the diocese. As his right to control the disputed property was derived solely from his clerical status, he also sought a declaration that he was "the true . . . Bishop." The state court did not purport to invest Milivojevich with the powers of the bishopric but did invalidate his defrockment because of arbitrariness by the hierarchy in failing to comply with its own "penal code." The Supreme Court invalidated the Watson arbitrariness exception, and held that the church tribunal is the exclusive judge of its own need to follow established procedure. The Court also indicated that this holding would apply whether or not the church procedure in question had theological origins. Considering the holdings in Presbyterian and Serbian, it appears that the phrase "religious controversy" has been defined sufficiently broad by the Court to encompass the determination of the propriety of almost any position or organizational action taken by a church.

The Supreme Court has allowed civil courts to exercise independent judgment on one religious matter: the location of the authoritative tribunal within the church. This issue may arise in one of two instances. First, there may be two tribunals claiming to speak for the general church. Second, a subordinate unit within the church may claim an autonomy the hierarchy denies. The scope of the civil court's independent judgment in these situations, however, is again severely circumscribed. The Jones Court intimated that the independent judgment of a civil court "would appear to" be limited to cases where the locus of authority within the church is not "ambiguous." This restriction was applied to the case of a purportedly autonomous subordinate in Serbian. The Eastern Orthodox Church in Serbian had divided the diocese into three smaller dioceses. Milivojevich, as putative spokesman for the diocese, claimed that the reorganization was "in clear and palpable excess of [the hierarchy's] jurisdiction" because earlier agreements between the hierarchy and the diocese "manifested a clear intention [that the diocese] retain independence and

33. See Gonzalez v. Roman Catholic Archbishop, 280 U.S. 1, 16 (1929); Bouldin v. Alexander, 82 U.S. (15 Wall.) 131 (1872); Brundage v. Deardorf, 55 F. 839 (N.D. Ohio 1893), aff'd, 92 F. 214 (6th Cir. 1899).
35. Id.
36. Id. at 714-15.
37. Id. at 712. ("it is the essence of religious faith that ecclesiastical decisions are to be accepted as matters of faith, whether or not . . . measurable by objective criteria").
38. 99 S. Ct. at 3026.
40. 99 S. Ct. at 3026 (emphasis added).
autonomy in its administrative affairs."\(^{41}\) The Eastern Orthodox Church, which had jurisdiction to determine internal allocations of power,\(^{42}\) interpreted these agreements to give autonomy only in the day-to-day administration of church property. The Supreme Court prohibited any independent civil court determination of the question because the provisions setting out the internal structure of the church "were not so express that the civil court could enforce them without engaging in a searching and therefore impermissible inquiry into church polity."\(^{43}\) Therefore, an autonomous subordinate's claim must yield to the claim of the general church if the locus of authority is ambiguous. In a case where two tribunals claim to speak for the church, a court following the Watson deference approach would appear to be required by Jones either to assume that the first party in court represents the church, or abandon deference for a "neutral principles"-type analysis.

Finally, the Court has made it clear that a civil court need not defer to the church tribunal's ultimate award merely because of the presence of one ecclesiastical issue among the several issues to be decided by the court in the course of its ultimate award of the property. In Serbian, the civil court was required to accept the decisions of the highest ecclesiastical tribunals within the church "in their application to the religious issues of doctrine or polity before [the civil court]."\(^{44}\) Jones contains a similar statement.\(^{45}\) This language indicates that the deference required by the Constitution is limited to religious controversies before the court. At some point, however, a state's approach to the ultimate resolution of the controversy may become so riddled with religious considerations that a civil court must defer to the church tribunal's ultimate resolution.\(^{46}\)

While the prohibition against civil court resolution of religious controversies is a longstanding tradition in constitutional law, the second part of the test applied in Jones is new to constitutional analysis and therefore has not been fully developed. This part of the test requires that a state's approach to resolving church property disputes be sufficiently flexible so that "a religious organization can ensure that a dispute over the ownership of church property will be resolved in accord with the desires of the members."\(^{47}\) The origin of this test is the first amendment, which protects religious organizations from state interference with the form of church government they choose.\(^{48}\)

This interference might occur if a state refused to recognize the de-

\(^{42}\) Id. at 721.
\(^{43}\) Id. at 723 (emphasis added).
\(^{44}\) Id. at 709 (emphasis added).
\(^{45}\) 99 S. Ct. at 3026.
\(^{46}\) Id. at 3028.
\(^{47}\) Id. at 3026.
cisions of the church government in church property disputes.\textsuperscript{49} Such a result first came before the Supreme Court in \textit{Maryland \& Virginia Eldership v. Church of God, Inc.}\textsuperscript{50} In \textit{Maryland \& Virginia Eldership}, the Court upheld Maryland's approach to the resolution of church property disputes. It dismissed an appeal on the sole ground that "the Maryland court's resolution . . . involved no inquiry into religious doctrine."\textsuperscript{51} Georgia's approach is based on, and is identical to the Maryland approach.\textsuperscript{52} Unlike the Maryland court in \textit{Maryland \& Virginia Eldership},\textsuperscript{53} however, the Georgia court in \textit{Jones} actually contravened the desires of the church and its members concerning the resolution of the property dispute. Under the PCUS constitution, property is owned by the congregation\textsuperscript{54} and managed by the ruling elders of the congregation,\textsuperscript{55} but the presbytery and superior tribunals are empowered to review all decisions of the leading elders and to excommunicate whomever they choose.\textsuperscript{56} The ultimate result of the Presbyterian scheme should have been that the general church had the

\textsuperscript{49} In \textit{Kedroff}, the New York legislature had awarded by statute the control of the New York property of the Russian Orthodox Church to an American group seeking to terminate its relationship with the Mother Church in Russia. Thus, the legislature prohibited the people of New York from recognizing the Russian Church as authoritative. The New York Court of Appeals upheld the statute. \textit{St. Nicholas Cathedral v. Kedroff}, 302 N.Y. 1, 96 N.E.2d 56 (1950). The Supreme Court invalidated the statute as offending the free exercise clause, stating:

By fiat [the statute] displaces one church administrator with another. It passes the control of matters strictly ecclesiastical from one church authority to another. It thus intrudes for the benefit of one segment of a church the power of the state into the forbidden area of religious freedom contrary to the principles of the First Amendment.

344 U.S. at 119. \textit{Kedroff} dealt with a state's refusal to recognize a hierarchy under any circumstances and therefore is distinguishable from a case of a failure to recognize the hierarchy because of a lack of effort on the part of that hierarchy to meet the minimal burden of stating its structure in legally cognizable form. \textit{See} text accompanying notes 58 \& 60 \textit{infra}.

\textsuperscript{50} 395 U.S. 367 (1970).

\textsuperscript{51} Id. at 368.


\textsuperscript{53} In \textit{Maryland \& Virginia Eldership}, the General Eldership deliberately had omitted from the constitution of the church any statement in regard to the control or ownership of church property. Appended to the constitution were two resolutions advising and recommending that the local congregation insert a provision for a trust in favor of the general church upon schism, with which the congregation did not comply. There was additional affirmative evidence that the Church of God allowed the local congregations autonomy in many matters.


\textsuperscript{55} 99 S.Ct. at 3094.

\textsuperscript{56} Id.
final authority in deciding the use of the congregation's property and in
determining which persons constituted the VPC. Under Georgia's neutral
principles of law approach, however, the desired arrangement with respect
to the church property had to be specifically stated to overcome presump-
tions of majoritarian congregational rule. Thus, the excommunicated ma-
jority in Jones ultimately retained control over the property and was
recognized by the civil court as the VPC, although this result was in direct
contradiction of the Presbyterian scheme.

The Supreme Court found that Georgia's "neutral principles" approach
did not violate the Constitution because: (1) it imposed no limitation on
the form of polity the church might adopt;57 (2) "minimal" effort was
required to express the church's polity in "legally cognizable" form before
a dispute arose;58 and (3) the parties were on notice before the particular
dispute arose that state law required such a provision.59 The Court con-
cluded that any state approach meeting these requirements is sufficiently
flexible to avoid interference with the form of government a church might
select.60

The dissent in Jones would have required the states to follow the
deferece approach of Watson as the best means for avoiding constitutional
questions in church property disputes.61 As the dissent perceived, once a
civil court identifies and follows the authoritative tribunal within a church,
the church's choice of government, which is protected by the second part
of the Jones test, will not be subverted by the state. In addition, there is
no opportunity for a civil court to decide further ecclesiastical questions in
violation of the first part of the Jones test because the civil court accepts
the tribunal's decree at face value. The majority conceded that the Watson
approach would meet its test in most cases, but noted that when the locus
of authority in the church is "ambiguous," application of Watson would
be unconstitutional because it would require "a searching and therefore
impermissible inquiry into church polity."62 In that situation, the dissent
would have allowed civil courts to "carefully examine" church polity and
to decide all ecclesiastical controversies necessary for the identification of
the authoritative tribunal.63

The dissent noted two constitutional difficulties with the majority
approach. First, it stated that the Jones test will "inevitably . . . increase
involvement of civil courts in church controversies,"64 because civil courts
will be required to decide more church property disputes under the Jones

57. Id. at 3025-26.
58. Id. at 3027.
59. Id. at 3027 n.4 ("retroactive application" of a neutral principles approach
might create free exercise problems).
60. Id. at 3027. But see id. at 3030 (Powell, J., dissenting).
61. Id. at 3032 (Powell, J., dissenting).
62. Id. at 3026.
63. Id. at 3034 (Powell, J., dissenting).
64. Id. at 3029 (Powell, J., dissenting).
test than under Watson. This concern, however, appears not to be founded on constitutional considerations. In Presbyterian, the Court observed, "It is obvious that not every civil court decision as to property claimed by a religious organization jeopardizes values protected by the First Amendment. Thus, the mere presence of added suits in civil courts should not be a matter of constitutional concern.

The dissent also found constitutional difficulty with the majority approach which would ignore church desires in those cases where the church failed to express its political arrangement in a form the state court recognizes. This complaint apparently misconceives the nature of the "neutral principles" approach. The difference between a Watson jurisdiction and a "neutral principles" jurisdiction is that the former resolves church property disputes by applying the law of voluntary associations while the latter resolves church property disputes by applying property law. A "neutral principles" jurisdiction merely requires that while drafting title instruments and subsequent agreements in compliance with ordinary principles of conveyancing law, the parties give some thought to the possibility of title disputes arising from schism.

The majority noted that "[t]he neutral principles approach cannot be said to 'inhibit' the free exercise of religion, any more than do other neutral provisions of state law governing the manner in which churches own property." Under the compelling state interest test of state regulations, the presence of a less burdensome means to serve the state's interest in providing a meaningful forum for the resolution of claims to church property might be fatal to the "neutral principles" approach which, unlike the Watson deference approach, requires some effort on the part of the hierarchy to secure its claims to the property. The infringement of free exercise, however, must be more than minimal before substantive due process tests stricter than the rational basis test are applied. In one sense

65. Id. at 3030-31 (Powell, J., dissenting).
67. 99 S. Ct. at 3030-31 (Powell, J., dissenting).
69. 99 S. Ct. at 3025. See also Maryland & Virginia Eldership v. Church of God, Inc., 396 U.S. 367, 370 (1970) (Brennan, J., concurring). The only significant difference is that the court requires more clarity of expression for those opposing the congregation's claim because in disputes over church property, the court cannot hear the evidence of both sides in clarifying ambiguous language, as it can in non-religious cases. See text accompanying notes 26-37 supra.
70. 99 S. Ct. at 3027.
72. See Zablocki v. Redhail, 434 U.S. 386-87 (1978); Whalen v. Roe, 429 U.S. 589 (1977) (no significant infringement of right to privacy, therefore no stricter analysis than rational basis); Sherbert v. Verner, 374 U.S. 398, 403 (1963) ("We turn first to the question whether the [state action] imposes any burden on the free exercise of appellant's religion."). For strong and widely followed dicta
there is no restriction of religious liberty at all because the state imposes no restrictions on the types of church organization which may be expressed in property law terms. Furthermore, the infringement involved in the neutral principles approach—the need to write down the property relationship—is by definition minimal if it meets the requirements of the second part of the Jones test.\footnote{73} Thus, while there is great practical force in the dissent's argument that "the evidentiary rules . . . should be fashioned to avoid interference with the resolution of the dispute within the accepted church government,"\footnote{74} due process clause jurisprudence does not compel invalidation of the neutral principles approach.

Both the majority and dissent in Jones agreed that the major constitutional problems arising from civil court resolution of church property disputes are the use of civil courts to resolve theological controversies and the potential threat to the integrity of church judicial systems by providing a civil forum for property dispute resolution. The disagreement in Jones was over the best method of avoiding these problems. Although the approaches of the majority and dissent potentially involve sacrifice of first amendment values in extreme cases, on balance both approaches appear equally useful in keeping the states from encountering constitutional difficulties. In view of the equal constitutional validity of the approaches, the question of the soundness of the result in Jones should be resolved by looking at the impact of the two approaches on the states since the law governing resolution of church property disputes is state law.

The state ultimately determines the goals it wishes to attain by providing a forum for property disputes. Some state ends are constitutionally impermissible and some means unconstitutionally impact on fundamental rights protected by the fourteenth amendment. The majority's two-part test separates unconstitutional state ends and practices from those that are

dealing with the impact of state constraints on property ownership upon the free exercise of religion, note the words of Chief Justice Vinson in American Communications Ass'n, C.I.O. v. Douds, 339 U.S. 382, 397-98 (1950):

> When the effect of a statute or ordinance upon the exercise of First Amendment freedoms is relatively small and the public interest to be protected is substantial, it is obvious that a rigid test requiring a showing of imminent danger to the Nation is an absurdity. We recently dismissed for want of substantiality an appeal in which a church group contended its First Amendment rights were violated by a municipal zoning ordinance preventing the building of churches in certain residential areas.

The ordinances referred to in Douds have continuing vitality. See Corporation of the Presiding Bishop v. Porterville, 90 Cal. App. 2d 656, 203 P.2d 823, appeal dismissed, 338 U.S. 805 (1949). The constitutional validity of these ordinances makes an a fortiori case for the constitutional validity of neutral principles. Under these ordinances, religious exercise is forbidden in certain forms in certain areas by the state. Under neutral principles, the only reason that the religious organization would not obtain what it desires is a lack of effort on its own part to describe its form of organization in legally cognizable terms.

\footnote{73} See text accompanying notes 57-60 supra.

\footnote{74} 99 S. Ct. at 5031 n.4 (Powell, J., dissenting).

\hspace{1cm}Missouri Law Review, Vol. 45, Iss. 3 [1980], Art. 8

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permissible. The dissent would, in addition, dictate the particulars of church property law to the states. By restricting the state’s freedom, the dissent might irrevocably put beyond the reach of the states attainment of many constitutionally permissible goals.75 The majority decision in Jones is sound because it protects the various constitutional rights involved and wisely leaves the states considerable latitude to fashion approaches suitable for the pursuit of all constitutionally permissible ends rather than placing restrictions on the states which would substantially foreclose such pursuit.76

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75. This proposition may be illustrated by the following example: a state might wish to protect the legal rights to congregational property of those labeled dissident by their church. As the Court discussed in Watson, congregations affiliating with a hierarchical church consent to be bound by the decisions of the church’s superior tribunals even when those decisions terminate their rights to property retained for use by the congregation. Watson v. Jones, 80 U.S. (13 Wall.) 679, 728-29 (1872). The act of affiliation greatly dilutes the legal rights of the congregation to the property vis-à-vis the general church. Nevertheless, commentators have suggested that the consent to be bound is conditional on a minimal amount of fairness by the tribunal. See C. Zollman, American Church Law § 302, at 287-89 (1933); Bernard, Churches, Members and the Role of the Courts: Toward a Contractual Analysis, 51 Notre Dame Law. 545, 559-62, 567-69 (1976); Sampen, Civil Courts, Church Property, and Neutral Principles: A Dissenting View, 1975 U. Ill. L.F. 543, 566-68, 573. Church members generally do not subject the rights to their property to arbitrary and capricious termination. After Serbian, however, a state following Watson must enforce even arbitrary decisions of the tribunal. If there is a valid approach under the majority’s test which would allow attainment of this goal, the dissent would subvert a salutary state endeavor with no compensating furtherance of constitutionally protected rights.

76. There are two arguments for abandonment of the Watson approach which have nothing to do with the state’s purposes in providing a forum for resolution of church property disputes. The initial determination under Watson of the locus of authority in the church is an ecclesiastical question according to Jones which can only be decided by the civil court if the locus of authority is not ambiguous. The first argument against the Watson approach is that the state must develop another approach in anticipation of these ambiguous cases because it may not inquire further if the locus of authority is ambiguous. The second argument arises from the possibility of the existence within the state of two methods of resolving church property disputes: one for ambiguous cases and the Watson approach for unambiguous cases. Because cases dealing with an ambiguous church political arrangement will be, as the majority noted in Jones, rare, the hierarchy might naturally neglect to meet the requirements of the alternative approach, whatever it may be. A shrewd dissident group sensing a better chance to retain the church’s property under the alternative approach developed for ambiguous cases might be encouraged by the existence of the dual system of law to attempt grand usurpation schemes in hopes of confusing the church polity question under Watson to the point of ambiguity. Thus, the disidents would receive treatment by the state under the more favorable alternative approach and already bitter schisms would be indirectly aggravated by the state.