

Would Church Tribunals Really Work?

by Darren L. Michael

Scripture and the Spirit of Prophecy clearly present an ideal for Christian conduct with respect to the relationships that should exist among church members. The implication is clear that, if church members are truly converted, their conduct in business matters and their respect for one another's rights will preclude the development of differences of opinion that cannot be amicably resolved by the members themselves within the framework of the church. In fact, both the Apostle Paul and Ellen White suggest that some disputes may have to be resolved by personal sacrifice of rights or property, the rationale being that such sacrifice avoids the harm that would come to the church if these disputes had to be settled outside the "family of faith."

Where such differences prove difficult of resolution, Christ offers in Matthew 18:15ff. an outline for negotiation. He first suggests an attempt at face-to-face consultation. If this fails, the aggrieved member should take his problem to two or three impartial members

of the church. The third step is an appeal to the church body itself. Finally, "if he refuses to listen even to the church, let him be to you as a pagan and a tax-collector" (v. 17, Amplified Bible).

It is clear, however, that the ideal will not always be achieved as long as we are dealing with human frailties. There will always be cases where honest people with high motives will have real differences of opinion based on their differing perceptions of issues. The early Christian believers in Corinth, for example, apparently decided that they could not reach the ideal. They, accordingly, resorted to the civil courts. Paul's criticism of this procedure focuses on the fact that in large measure the judges before whom Christians were appearing were anything but honorable men, and that it was a disgrace to expose the "dirty linen" of the church before pagan eyes. Paul, therefore, presents a cogent argument for resolving differences within the framework of the local congregation.

Implementing scriptural counsels (along with similar statements in the Spirit of Prophecy), however, raises some practical problems. In the first place, where is the church tribunal to which members can bring their grievances? What guidelines would such a tribunal follow to insure that its pro-

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ceedings would be carried out in a fair manner with equal protection for rights of plaintiff and defendant? And even if such a tribunal existed, would it be able to enforce its decisions? Would its decisions be recognized by civil courts?

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Consider some areas of potential dispute in which an ecclesiastical court might lack the authority to enforce its decisions:

1. *Automobile accident compensation claims not only for damaged property but also for personal injuries.* In most cases, insurance companies will not make payment unless the matter is adjudicated before civil courts.

2. *Compensation for injuries occurring on denominationally owned premises.* Many insurance policies do not permit unilateral settlements gratuitously offered by the potential defendant, insisting that the person claiming such compensation must at least institute proceedings for the recovery of his claim in the competent court of civil jurisdiction.

3. *Contractual disputes dealing with property assets.* A ruling by a church tribunal may be founded on equitable principles, but if it is not accepted by the party required to give up assets, what then takes place?

4. *Land transactions involving mortgage default or interpretation of terms of contracts.* Will the decisions of a church tribunal be recognized by civil authorities so that title to land can actually change hands without resort to the usual civil court procedures?

5. *Legal separations or divorces, especially where property distribution and child custody are involved.* Once more the question arises as to whether the church can enforce its decision in a manner that will enjoy recognition by gov-

ernmental authorities who also claim jurisdiction in these matters.

6. *The administration of estates and the interpretation of wills.* Seventh-day Adventist beneficiaries may honestly disagree on what the deceased meant by a particular phrase in a poorly drawn will. (There seems to be a growing trend for wills to be drawn by or for Seventh-day Adventists without much legal advice.) How can such matters be satisfactorily resolved when the practical implications of such settlements must also be given legal effect in the courts?

7. *Protection of corporate assets or industrial property rights involving patents, trademarks and copyrights.* Is the church competent to render decisions that will be binding upon both parties?

8. *Industrial relations.* As more and more Seventh-day Adventists operate their own businesses, there is inevitable involvement with their employees even if no trade union is certified to represent them. Does the church have adequate facilities to evaluate fair labor practices, an area that is becoming increasingly complex and technical?

Few church boards or conference committees would be competent to examine the above issues (and the list is far from complete) and render decisions that would commend themselves to the parties to the dispute. I do not intend to sound critical of the ideal expressed by the church, by Jesus, and by Ellen White. Serious effort should be given to dealing creatively and constructively with these counsels, trying to find a workable means of applying them to these complex areas of human relationships. Perhaps some sort of preliminary adjudicative procedure within the church could be employed which, if unsatisfactory to the parties involved, would then open the way for resort to the civil courts.

Another question worth considering is whether the civil courts in North America are truly pagan and therefore morally unworthy of determining issues between dedicated church members. Certainly, many of our judges are men and women of high principles and in some instances are devout

Christians. Most judges are appointed or elected to judicial office on the basis of their qualifications. Their experience in legal matters as well as in various technical areas of industry and commerce justify their position on the bench. On the other hand, while there may be no lack of devotion to Christian principles on the part of Seventh-day Adventists, do we have a sufficient reservoir of legally trained church members with adequate knowledge of the many technical and complex issues involved in many disputes to resolve these issues?

In 1975, the church decided to make lawsuits among members reason for church discipline. But it is not right to throw out an existing procedure without providing something practical to take its place. Should the church, now appearing to have embarked on a course of action that requires ecclesiastical courts, give careful study to the establishment of its own judicial system complete

with rules of procedure, rules of evidence, and the training of attorneys and judges?

I would hope, if the church is to undertake such a study, that it would feel free to draw upon the expertise of lawyers and judges in its membership. This seemingly obvious step might not be taken. For example, not one legally trained individual served on the committee for the revision of the *Church Manual* or on the committee on constitution and bylaws at the Vienna General Conference Session.

The church finds no contradiction in training and using qualified physicians even though our ideal is a simple, disease-free lifestyle. Why can the church not likewise use legally trained individuals to help achieve its ideal of harmony among members? If the addition to the *Church Manual* prohibiting litigation among church members is retained, the church will need all the competent help it can get.