

Approved By God: A Case for Modern Disestablishment

UNITED STATES OF AMERICA, Plaintiff,
vs.
INDIANAPOLIS BAPTIST TEMPLE, GREGORY JEROME DIXON,
and NBD BANK, INC., Defendants.

The Indianapolis Baptist Temple case is an example of a church that came to the conclusion that it was not entangled with any state or federal agency, including the Internal Revenue Service. Therefore, the church believed it had no obligation to collect F.I.C.A. taxes. The Temple argued that the tax laws imposed on churches violate the First Amendment's Establishment Clause, which is the basis of separation of church and state.

The courts did not agree. Judge Barker, the District Court judge, decided that the church was an unincorporated association during the time that employees' taxes were supposed to be withheld. The decision of the District Court and subsequent rulings from the appeals courts said that tax laws are "neutral laws" that do not run afoul of First Amendment protections of the free exercise of religion.

Is this a case which shows that it makes no difference if a church is incorporated or not in the eyes of the court? Several reasons show this to be a fallacy. Was Baptist Temple a pure church, not entangled with the government, or was it exactly what the Justices saw it to be: an unincorporated religious society, an entity created by statute, and more of a quasi-corporation than a church?

Judge Barker, in her Summary Judgment decision, stated:

"The church was founded in March 1950 and was subsequently incorporated as a not-for-profit corporation on October 27, 1950. IBT began operating at 2711 South East Street, in Indianapolis, Indiana, and has been at that location ever since.

As a not-for-profit corporation, IBT claimed tax exempt status and obtained federal employer identification number 35-1037016. Thereafter, in 1983, the church membership decided to manage the church's affairs as an unincorporated religious society, rather than as a corporation. As part of the transition, the corporation's assets were transferred to the unincorporated religious society and the articles of incorporation were amended to limit the corporation's purpose to "...continuing any litigation in which the corporation may have been involved prior to 6-26-83 and any future litigation and to continue such financial obligations and legal responsibilities as have not been assumed by Indianapolis Baptist Church, an unincorporated Church." The next year, the articles of incorporation were again amended to change the name of the corporation from Indianapolis Baptist Temple, Inc. to "Not a Church, Inc." Two years later, on July 31, 1989, Not a Church, Inc. was administratively dissolved by Indiana's Secretary of State.

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Meanwhile, in May of 1987, the unincorporated religious society known as Indianapolis Baptist Temple transferred all of its assets to Gregory Jerome Dixon, the church's pastor, as trustee. After February 15, 1994, the society held title to real property located in Indianapolis, Indiana and known as 2711 South East Street and 339 West Cragmont Drive.”

The fallacy of the Baptist Temple position can be seen in several areas from the historical record of the church. First, the church voluntarily entered into a corporate status in 1950 and continued therein for thirty-three years. While incorporated, they “...claimed tax exempt status...” and had a “...federal employer identification number.” The corporate church admitted that it had employees and therefore was an employer. During these years as a corporate church, eight other corporations were started by people or ministries of the church: Indianapolis Baptist Schools, Inc., Christian Senior Housing Foundation, Inc., Columbia Towers of Indianapolis, Inc., Columbia Towers of Springfield, Inc., Foundations of Faith, Inc., Philogians, Inc., Iron Curtain Evangelism, Inc., and Not A Church, Inc. Each of these corporations’ officers or incorporators were ministers of Baptist Temple. The majority of these corporations listed the addresses on South East Street or West Cragmont as the registered office of the corporations, including Not A Church, Inc.

Second, the church deliberately amended its articles of incorporation to continue the church’s parent corporation, Indianapolis Baptist Temple, Inc., to read that the sole purpose of this corporation was to “...continue any litigation ... prior to 6-26-83 and **any future litigation...and legal responsibilities...**” not assumed by the church.

Third, the church never unincorporated the church corporation. The ways to unincorporate are spelled out in the Not-for-profit Corporation statutes of each state. There is a process to legally unincorporate. Notifying the Secretary of State as to the dissolution of the corporation is one of the first steps. Notifying the Internal Revenue Service is another step. Baptist Temple, although having signed an agreement to abide by all Not-for-profit Corporate law, disregarded this voluntary agreement, and did none of the steps to legally rid itself of its corporate status. Judge Barker wrote in her opinion: “From 1983 to 1987, both **the society and the corporation co-existed**, with the society managing church affairs and the corporation's **role limited to continuing any litigation** in which it was involved. In 1983, the two entities **shared the name Indianapolis Baptist Temple** until the corporation changed its name the following year to Not a Church, Inc.” A good question for the church to answer is: Why did you enjoy all the benefits of the corporate status from the law for over thirty-three years, but would not abide by the responsibility of the same law to dissolve the corporation properly?

Fourth, the church, in May of 1987, “...transferred all of its assets to Gregory Jerome

Approved By God: A Case for Modern Disestablishment

Dixon, the church's pastor, **as trustee.**" A trustee, by definition, is the person "...required by law, to execute a trust." A trustee is a legal, corporate office, and not a Scriptural office. A local church determined to follow a course of Biblical opposition to a fictitious, man-made body, would not be able to use the legally created officers of that fiction and be consistent in their beliefs. Also, the church borrowed two million dollars in 1987 from Summit Bank (now NBD Bank, Inc.) in Fort Wayne to pay off a bond program which the church corporation started years before. Thus, NBD Bank, Inc. was named as a defendant in the suit. The paperwork for the loan was also signed by two other ministers as "trustees" of the "unincorporated association."

Fifth, the church corporation, changed deliberately by the church from Indianapolis Baptist Church, Inc. to Not A Church, Inc., was dissolved by Indiana's Secretary of State on July 31, 1989. According to Indiana Law, a defunct corporation can be resurrected up to three years after being dissolved in order to complete further business. This would place the church's parent corporation still in existence to do the business of "future litigation" in 1992. The Internal Revenue Service filed liens two years later in 1994 for the periods 1987 through 1993. For the years 1987 through 1992, the church's parent corporation would have been liable for those years. Naturally, one could assume that the Internal Revenue Service filed their liens a year too late; that the corporation could no longer be resurrected to do business. In spite of that technicality, the parent corporation still would have been in existence for six of the seven years of the liability.

Sixth, of the other corporations which the church started, Indianapolis Baptist Schools, Inc., was dissolved administratively by the Indiana Secretary of State on April 20, 1992. Annual corporate reports were deliberately filed by someone at the church for the years 1987, 1988, and 1989, three of the years on which the Internal Revenue Service placed liens. The church has repeatedly placed into evidence that it unincorporated in 1983. The court record states: "In 1983, the church membership decided to manage the church's affairs as an unincorporated religious society, rather than a corporation." A huge, legal problem was the fact that the unincorporated church kept the parent church corporation around, albeit by a different name, for at least another seven years after that, all the while claiming its unincorporated church status. Making matters worse is the fact that even after letting the parent church corporation die, the church kept the church school's corporate status current and in good standing with the state until the end of 1989. Therefore, with the Secretary of State dissolving this corporation in 1992, that gave another three years in which to resurrect this corporation in order to do the business of settling its affairs. That would place the date at April 20, 1995, at which the government could delay proceedings for another year against a corporation of the church and still be within its lawful right to sue the church corporately.

Seventh, the church claimed that as a New Testament Church, the government had

Approved By God: A Case for Modern Disestablishment

no jurisdiction to decide what a church must do, and how a church must act. The greatest inconsistency the church showed was in this belief that government cannot decide what a church must do, and yet the church voluntarily submitted itself to the federal court's jurisdiction for the judge to decide what the church must do. Then the church repeated its error when it submitted itself again to the seventh district Court of Appeals to decide what it must do. A third error concerning its jurisdictional argument was when the church submitted itself again to the Supreme Court of the United States to decide what it must do. If a church is going to take a stand against governmental authority, it must be consistent and not submit even to the authority of the court. To go to court, plead the case, and await the judge to rule on the case, is submitting to the jurisdiction of the government. To then cry foul, because the decision made was not agreeable, is unjustified resentment.

The attorney for the church argued that trying to collect Social Security taxes from an unincorporated church is not under the purview of the Internal Revenue Service. He stated that this would be tantamount to establishing a religion. While legally that may be true, and while even modern law professors are coming to this conclusion, it would be paramount for a church to sincerely and consistently hold that position before a court could ever rule in the way Baptist Temple desired the court to rule. Baptist Temple, with the precedent of their voluntary actions, the inconsistency of their stance, the hypocrisy of their own records, and their determination to let the corporations die, could in no way postulate this kind of an argument successfully.

Another logical scenario would have been for the teachers and ministers, who had already paid their own Social Security taxes, to sue the Internal Revenue Service with a class action suit, with demands to know why they could not file as self-employed workers. This would have placed the onus upon the IRS to prove the church was an entity who could have self-employed workers. Of course, this would not have involved the church itself, the media, the militia groups, or the U.S. Marshals, nor would this have brought a stand against government encroachment into a church.

The salient question which must be answered is this: Does the government have a right to decide what its own statutory-created entity must do? Baptist Temple defends itself by stating that now it is only a church, and not a statutory-created entity. The government consistently counters with: The record shows this to be a statutory entity which, by definition, must abide by the corporate contract to perform what it has performed in the past, and has never dissolved performing in the future.

The Baptist Temple case is not a true or accurate example of what would happen if a church did not come under corporate laws, because it was not incorporated. This case is purely an example to all incorporated churches that they must agree to go by the corporate laws which they deliberately volunteered to put themselves under.