

tion will prevail.<sup>47</sup> On the other hand, a court confronted with a church property dispute could apply “neutral principles of law, developed for use in all property disputes,” when to do so would not require resolution of doctrinal issues.<sup>48</sup> In a 1976 case, the Court elaborated on the limits of proper inquiry, holding that an argument over a matter of internal church government—the power to reorganize the dioceses of a hierarchical church in this country—was “at the core of ecclesiastical affairs” and a court could not interpret the church constitution to make an independent determination of the power but must defer to the interpretation of the church body authorized to decide.<sup>49</sup>

In *Jones v. Wolf*,<sup>50</sup> however, a divided Court, while formally adhering to these principles, appeared to depart in substance from their application. A schism had developed in a local church that was a member of a hierarchical church, and the majority voted to withdraw from the general church. The proper authority of the general church determined that the minority constituted the “true congregation” of the local church and awarded them authority over it. But rather than requiring deference to the decision of the church body, the Court approved the approach of the state court in applying neutral principles by examining the deeds to the church property, state statutes, and provisions of the general church’s constitution concerning ownership and control of church property in order to determine that no language of trust in favor of the general church was contained in any of them and that the property thus belonged to the local congregational majority.<sup>51</sup> Further, the Court held, the First Amendment did not prevent the state court from applying a pre-

<sup>47</sup> *Presbyterian Church v. Hull Memorial Presbyterian Church*, 393 U.S. 440, 447, 450–51 (1969); *Maryland and Virginia Eldership of the Churches of God v. Church of God at Sharpsburg*, 396 U.S. 367 (1970). For a similar rule of neutrality in another context, see *United States v. Ballard*, 322 U.S. 78 (1944) (denying defendant charged with mail fraud through dissemination of purported religious literature the right to present to the jury evidence of the truthfulness of the religious views he urged).

<sup>48</sup> *Presbyterian Church v. Hull Memorial Presbyterian Church*, 393 U.S. 440, 449 (1969); *Maryland and Virginia Eldership of the Churches of God v. Church of God of Sharpsburg*, 396 U.S. 367, 368 (1970). See also *id.* at 368–70 (Justice Brennan concurring).

<sup>49</sup> *The Serbian Eastern Orthodox Diocese v. Dionisije Milivojevic*, 426 U.S. 697, 720–25 (1976). In *Gonzalez v. Archbishop*, 280 U.S. 1 (1929), the Court had permitted limited inquiry into the legality of the actions taken under church rules. In *Serbian Eastern* the Court disapproved of this inquiry with respect to concepts of “arbitrariness,” although it reserved decision on the “fraud” and “collusion” exceptions. 426 U.S. at 708–20.

<sup>50</sup> 443 U.S. 595 (1979). In the majority were Justices Blackmun, Brennan, Marshall, Rehnquist, and Stevens. Dissenting were Justices Powell, Stewart, White, and Chief Justice Burger.

<sup>51</sup> 443 U.S. at 602–06.