of Appeals that the applicant will be delivered in the Northern District if he wins his habeas corpus case. Moreover, as the Solicitor General points out, the Secretary of the Army is a party to this action; hence the case will not become moot by the deployment.

If it were clear that applicant would win on the merits, a further protective order at this time would be appropriate. But the merits are in the hands of a competent tribunal and as yet unresolved. And I cannot assume that the Army will risk contempt by flouting the protective order of the District Court.

Application denied.

396 U.S. 365

Camillo MOLINARO, Appellant

v.

NEW JERSEY.

No. 663.

Jan. 19, 1970.

Appeal from judgment of Supreme Court of New Jersey affirming conviction for abortion and conspiracy to commit abortion. The Supreme Court held that, where defendant, who was free on bail, failed to surrender himself to state authorities, his appeal would be dismissed.

Appeal dismissed.

Criminal Law ⇐1131(5)

Where defendant, who was free on bail, failed to surrender himself to state authorities, with result that bail was revoked and defendant was considered fugitive from justice, Supreme Court would dismiss his appeal, there being no specific provision to contrary in statute under which he appealed, though escape did not strip case of character as adjudicable case or controversy. 28 U.S.C.A. § 1257(2).

Burrell Ives Humphreys, for appellant.

PER CURIAM.

This case comes to the Court on appeal from the New Jersey state courts, which have affirmed appellant Molinaro's conviction for abortion and conspiracy to commit abortion. We are informed by both appellant's counsel and counsel for the State that Molinaro, who was free on bail, has failed to surrender himself to state authorities. His bail has been revoked, and the State considers him a fugitive from justice. Under these circumstances we decline to adjudicate his case.

The Court has faced such a situation before, in Smith v. United States, 94 U.S. 97, 24 L.Ed. 32 (1876), and Bonahan v. Nebraska, 125 U.S. 692, 8 S.Ct. 1390, 31 L.Ed. 854 (1887). In each of those cases, which were before the Court on writs of error, the Court ordered the case removed from the docket upon receiving information that the plaintiff in error had escaped from custody. In *Smith*, the case was dismissed at the beginning of the following Term. See 18 Geo.Wash. L.Rev. 427, 430 (1950). In *Bonahan*, the case was stricken from the docket on the last day of the Term in which it arose. See also National Union of Marine Cooks and Stewards v. Arnold, 348 U.S. 37, 43, 75 S.Ct. 92, 95, 99 L.Ed. 46 (1954); Eisler v. United States, 338 U.S. 189 and 883, 69 S.Ct. 1453, 93 L.Ed. 1897 (1949); Allen v. Georgia, 166 U.S. 138, 17 S.Ct. 525, 41 L.Ed. 949 (1897). No persuasive 366 reason exists why this Court should proceed to adjudicate the merits of a criminal case after the convicted defendant who has sought review escapes from the restraints placed upon him pursuant to the conviction. While such an escape does not strip the case of its character as an adjudicable case or controversy, we be-

lieve it disentitles the defendant to call upon the resources of the Court for determination of his claims. In the absence of specific provision to the contrary in the statute under which Molinaro appeals, 28 U.S.C. § 1257(2), we conclude, in light of the *Smith* and *Bonahan* decisions, that the Court has the authority to dismiss the appeal on this ground. The dismissal need not await the end of the Term or the expiration of a fixed period of time, but should take place at this time.

It is so ordered.

Mr. Justice DOUGLAS concurs in the result.

396 U.S. 367

The MARYLAND AND VIRGINIA ELDERSHIP OF the CHURCHES OF GOD et al.

v.

The CHURCH OF GOD AT SHARPSBURG, INC., et al.

No. 414.

Jan. 19, 1970.

Actions by regional church against local churches and others to prevent local churches from withdrawing from regional church and to determine which of two factions should control local churches and their property and corporations. The Circuit Court, Washington County, Maryland, dismissed the complaint and regional church appealed. The judgment was affirmed, 249 Md. 650, 241 A.2d 691, and regional church appealed. The United States Supreme Court, 393 U.S. 528, 89 S.Ct. 850, 21 L.Ed.2d 750, vacated the judgment and remanded the cause. The Court of Appeals again affirmed, 254 Md. 162, 254 A.2d 162, and an appeal was taken. The Supreme Court then held that since the Maryland Court of Appeals, resolution of the dispute involved no inquiry into religious doctrine, the appeal of the regional church, which argued primarily that the Maryland statute, as applied, deprived the regional church of property in violation of the First Amendment, had to be dismissed for want of a substantial federal question.

Appeal dismissed.

Courts ⇐394(3)

Since state court's resolution of dispute between regional church and two secessionist congregations involved no inquiry into religious doctrine, appeal of the regional church, which argued primarily that the state statute, as applied, deprived the regional church of property in violation of the First Amendment, had to be dismissed for want of a substantial federal question. Code Md.1957, art. 23, §§ 256–270; U.S.C.A.Const. Amend. 1.

Alfred L. Scanlan, James H. Booser and Charles O. Fisher, for appellants.

Arthur G. Lambert, for appellees.

PER CURIAM.

In resolving a church property dispute between appellants, representing the General Eldership, and appellees, two secessionist congregations, the Maryland Court of Appeals relied upon provisions of state statutory law governing the holding of property by religious corporations,[1] upon language in the deeds conveying the properties in question to the local church corporations, upon the terms of the charters of the corporations, and upon provisions in the constitution of the General Eldership pertinent to the ownership and control of church property. 254 Md. 162, 254 A.2d 162 (1969).[2] Ap-

1. Md.Ann.Code, Art. 23, §§ 256–270 (1966 Repl.Vol.).

2. The Maryland court reached the same decision in May 1968. 249 Md. 650, 241