

Bucklesberry, Back in the Day

Hickory Grove Church (Part 30)

The legal battle between Rev. Bushrod Washington (B. W.) Nash, agent of the Union Baptist Association, and Bucklesberry's first church was an ongoing saga that lingered for more than two decades. Initially filed in 1889, the last of six lawsuits was settled in 1910.

Hickory Grove prevailed in the first three suits. The fourth suit had an unexpected twist and turn, however. The Church received a favorable ruling when tried at Lenoir County Superior Court in 1894. But on appeal to the North Carolina Supreme Court in 1895, Rev. Nash won a reversal, sending the case back to the lower Court.

By early 1896, Rev. Nash filed a fifth suit against the Church. His complaint remained the same, specifically, that landowners, Julius Eri Sutton, and wife, Nancetta Sutton, had deeded the Church building and property in 1872 to Hickory Grove Church, then a Baptist work, and the Union Baptist Association. Therefore, he contended the Church had no authority to sever its Baptist ties in 1885 and to align with the Methodist Protestant (M. P.) Church.

The fifth civil action was tried at Lenoir County Superior Court in May, 1896 before Judge Henry Reuben Starbuck and a jury. Summarized below, a judgment in favor of Hickory Grove was handed down once again:

"In an action by a trustee to recover church land, the parties [plaintiff, Rev. Nash of the Union Baptist Association and defendant, Samuel Ivey (S. I.) Sutton and others of Hickory Grove Church] stipulated that the answer of the jury to the issue as to whether the trustee [Rev. Nash] was the owner and entitled to recover possession should settle the whole controversy, and that the answer should be 'Yes' if certain facts were true, otherwise that it should be 'No.' The jury answered the issue 'No.' *Held*, that the verdict, together with the stipulation, justified a judgment for defendant." (*The Southeastern Reporter*, Vol. 25, p. 959)

The case was promptly appealed to the North Carolina Supreme Court. In November, 1896 Associate Justice David Moffatt Furches wrote the opinion for the majority which affirmed the lower Court ruling and handed Rev. Nash yet another defeat:

"We find the following agreement entered into by the parties, and made a part of the case on appeal: 'The following issue, by permission of the court, the request of plaintiff, and the express agreement between the parties, was the only issue submitted to the jury, with the distinct understanding on the part of the court and the parties that the response to said issue by the Jury

should settle the whole controversy, and all the Issues raised by the pleadings. It is further agreed that if the jury should find the original conveyance (which had been burned) to the trustee was in trust for the Baptist Church at Hickory Grove and Baptist denomination, they should answer the issue "Yes"; but, they should find that it was in trust for Baptist Church at Hickory Grove alone, they should answer the issue "No." And the issue submitted to the jury under this agreement is as follows: 'Is the plaintiff, B. W. Nash, trustee, the owner of, and entitled to recover possession of, the property in controversy? Ans. No.' Upon the coming in the verdict the following judgment was rendered: 'Upon the finding of the jury, and upon admissions made on the trial, it is adjudged that the plaintiff recover nothing from the defendant; that the plaintiff is not the owner, and is not entitled to recover the possession, of the land described In the complaint; that defendant go without day, and recover costs,' etc., 'and that no witness fees are to be taxed against plaintiff.' And this judgment is excepted to by the plaintiff upon the ground that it is not justified by the verdict. This is the only exception in the case, and it is without merit, and cannot be sustained. The verdict, when taken in connection with the agreement of the parties, fully sustains the judgment of the court, and the same must be affirmed." (*The Southeastern Reporter*, Vol. 25, p. 960)

In short, the High Court upheld the lower Court ruling that Hickory Grove Church unequivocally owned its building and property. The Church's separation from the Baptists in 1885 and subsequent affiliation with the M. P. Church was no longer a legal issue.