

UNITED CHURCH OF CHRIST

Seventh Floor, 297 Park Avenue South
New York 10, N. Y.

December 17, 1962

President: Ben M. Herbster

Secretary: Fred S. Buschmoyer

Treasurer: Charles H. Lockyear

Assistant to the President:
Robert F. R. Peters

RE: "THE STORY OF THE SAGINAW CHURCH"

The pamphlet "The Story of Saginaw" issued by "The Committee for the Continuation of Congregational Christian Churches", Publications office: 97 Mary Day, Pontiac, Michigan, calls forth this statement to make plain the facts in this case.

Let me say, categorically, that the United Church of Christ will make no effort to restrain Congregations from leaving the Church and taking their property with them. Article 21 of the Constitution applies from July 4, 1961 on, and we have neither the intention nor the power to violate that Article. I do not need to point out, however, that my assurance will not guarantee that a minority of a local Church will not sue to keep the property. However, such a suit would not be inspired by the United Church of Christ, directed by the Church, nor will we be a party to such a suit. Furthermore, it is the opinion of our counsel that such a suit would not be successful, in view of the provisions of the Basis of Union and the Constitution of the United Church.

With respect to the pamphlet, the action of the Saginaw Church was to withdraw from the Evangelical and Reformed Church, not the United Church of Christ. The first draft of the Constitution of the United Church of Christ had not even been made when the Church attempted to withdraw, and the Saginaw Church, by reason of the Evangelical and Reformed "Structures Resolutions" was still controlled by the polity of the Evangelical and Reformed Church. Even then the Michigan-Indiana Synod was not a party to the suit, but the suit was brought under State Law by a minority within the congregation.

The pamphlet says that the Supreme Court of Michigan "ignored" the Constitution of the United Church of Christ. We are informed that the Constitution was not even in evidence and was not part of the record on appeal before the Court. The defendants, at no time, made any attempt to open the record and present to the Court the provisions of the Constitution, for the purpose of arguing that they had a right to withdraw under Section 21. The Basis of Union was in evidence, but, again, the defendants made no effort to support their right to withdraw on the ground that the Church was a part of the United Church of Christ and thus not controlled by the Evangelical and Reformed Polity.

There is no question in my mind that, as of the present time, the Immanuel Evangelical Lutheran Church of Saginaw could, by vote of its majority, withdraw from the United Church of Christ.

The Michigan decision is reported at 367 Mich. 575, in case any of the attorneys in your Church would like to read it and report to you.

I have reviewed the contents of this statement with Mr. Wood of Wood, Franco & Tully, attorneys for the United Church of Christ, and he has substantiated the facts which I have set forth above.

Ben M. Herbster

UNITED CHURCH OF CHRIST

Seventh Floor, 297 Park Avenue South
New York 10, N. Y.

March 25, 1963

Mrs. Moses Moku, President
Waihee Church Board of Trustees
Wailuku, Maui, Hawaii

President: Ben M. Herbster
Secretary: Fred S. Buschmeyer
Treasurer: Charles H. Lockyear
Assistant to the President:
Robert F. R. Peters

Dear Mrs. Moku:

Your February 18th letter indicating that the members of the Waihee Protestant Church of Kawaiwai Council of Churches, Waihee, Maui, having met at an officially called business meeting, January 18, 1963, have unanimously voted for withdrawal of membership from the United Church of Christ, retaining full Congregational standing is at hand.

Let me say that those of us here at the headquarters of the United Church of Christ are distressed that your congregation has voted to take this position. I cannot emphasize how mistaken we think you are and this must be because you have been given information that simply is not true. How anybody can read Article 21 of the Constitution and then believe that any of the rights of a local congregation are infringed upon by the United Church of Christ or membership in it is beyond me, but be that as it may. We are ready to honor your expressed desire as you have sent it to us in your letter and you may know that as of this date we shall no longer carry you as a church of the United Church of Christ. In the meantime, since your standing as a congregation is really in the Hawaiian Evangelical Association, I am sure you will find that they will take action severing relations on your behalf with the United Church of Christ, making this very official.

The last paragraph of your letter has to do with a request that your withdrawal be effected as soon as possible and that such withdrawal will clearly specify that you will retain all of the properties, interests, associations, and any other originally designated interest. Now, since you never lost any of those when you joined the United Church of Christ, it goes without saying that you will continue to hold them even as you did when you were a member of the United Church of Christ. The United Church of Christ cannot give you back that which it never took away or that which you never gave it. Your situation now is the same as it was before you became a member of the United Church of Christ, as it was when you were a member of the United Church of Christ and as it will continue to be. The United Church of Christ has no claim on your property or interests or anything that is yours. I trust this is as plain as I can make it. (It also gives the lie to any statement that has been made misleading you into thinking that we would even think of trying to keep you or your properties against your will.)

If at any time it should seem wise for you to review your situation and again seek membership in the United Church of Christ, let me say that we will be glad to receive you. We want only your fellowship, nothing more, and the strength which all of us can give to our united cause.

In the meantime, if the United Church of Christ can be of any service to you, I trust you will feel free to call upon us.

Sincerely yours,

Ben M. Herbster

THE GENERAL COUNCIL OF THE CONGREGATIONAL CHRISTIAN CHURCHES

287 Park Avenue South, New York 10, N. Y.

Stanley U. North
Secretary of the
General Council

March 13, 1963

To the Congregational Christian Churches and their Pastors.

DEAR Friends and Colleagues:

In order that there shall be a clear understanding as to the status of the litigation involving the Congregational Christian Churches in relation to the United Church of Christ, request was made of Mr. Loren T. Wood of the law firm representing The General Council to provide a factual statement which could be shared with all the churches.

STATEMENT BY LOREN T. WOOD RE LITIGATION

"On February 18th, 1963, the United States Supreme Court denied the petition for certiorari filed by the plaintiffs in the Burlington Case. The petition had asked for review by the highest court of our land of the decisions of the lower Federal Courts which had dismissed a complaint seeking to have the Basis of Union and the Constitution of the United Church of Christ declared invalid.

"On February 25th, 1963, an Ohio Appeals Court affirmed the decision of an Ohio Trial Court dismissing a complaint which had sought to invalidate the vote of a Toledo Church to become a part of the United Church of Christ.

"Previously, on January 24th, 1963, the anti-merger interests in Wyoming had withdrawn their appeal from a judgment dismissing a complaint seeking to invalidate the vote of the Sheridan Wyoming Church to become a part of the United Church of Christ.

"Thus, there are now eight courts in four different jurisdictions which have rejected all of the contentions of the Continuation Committee as to the invalidity of the United Church of Christ. These courts were made up of an aggregate of thirty judges.

"It is now even more abundantly clear, than at the time of my last communication to you, that there is no basis for a contention that there are legal uncertainties as to the validity of the Basis of Union and Constitution or a contention that a church will lose its traditional congregational autonomy by joining the United Church of Christ. It is well to recall that the decision of the highest court of New York, upon which the United States Courts, the Ohio Courts and the Wyoming Court based their dismissals of the complaints, stated: -

'According to its express terms, the Basis of Union recognizes the local church as the basis of organization, and that the conferences, conventions and associations shall 'conduct its business

in its own way' by providing that each congregation, association and conference 'has the right of retaining or adopting its own charter, constitution, by-laws and other regulations which it deems essential and proper to its own welfare'; in other words that there will be no intrusion in or abridgement of traditional congregational polity and usage through fellowship of independent autonomous congregations, free of authoritative control."

The New York Court concluded:-

"On this record, the proof having established that the Basis of Union is voluntary and in no way interferes with the congregational faith or manner of worship....the complaint was properly dismissed on the merits."

Those among us who resorted to litigation did so convinced that the United Church of Christ is a negation of Congregationalism. The courts have decided otherwise. The process has been long, expensive and trying, but now, at long last, the time has come to reaffirm our fellowship ties.

Let it be recognized by all of us: a society facing annihilation can have little patience and less regard for churchmen who do obeisance to tradition and stand quiescent in the face of forces poised and ready at the turn of a switch to destroy it.

We shall continue to have differences at one point or another in the nature of our democratic way. But of a certainty, out of the crossing of minds will come new and exciting achievements.

Were this all it would be much but not enough. More than all else is our unity in Christ. His Spirit will strengthen us where we are weak, challenge us where we are timid, guide us where we are inadequate, bless us when we have done our best, be it ever so little and ever so poor.

"He calls us into his Church
to accept the cost and joy of discipleship,
to be his servants in the service of men,
to proclaim the gospel to all the world
and resist the powers of evil,
to share in Christ's baptism and eat at his table,
to join him in his passion and victory."

Fraternally yours,

Stanley U. North