

A LETTER FROM THE
COUNSEL OF THE GENERAL COUNCIL
CONCERNING THE REPORT OF A STUDY
BY THE COMMITTEE ON
FREE CHURCH POLITY AND UNITY

This opinion of the counsel of the
General Council is sent to the churches
for their information

JUNE 1954

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May 28, 1954

Rev. Arthur D. Gray, *Chairman*
Executive Committee,
287 Fourth Avenue,
New York, N. Y.

RE: REPORT OF THE COMMITTEE ON
FREE CHURCH POLITY AND UNITY

Dear Dr. Gray:

In our letter to you of April 26th, we stated that we would submit further comments regarding the Report. We address ourselves primarily to the factual and legal findings contained in Chapters IV, 3 through IV, 6, which appear to be the premises for many of the conclusions which follow and which accordingly constitute the heart of the Report.

The Report contains statements in fields other than the legal phases of Congregational polity which we do not pass upon. We desire to confine ourselves to the legal relations to each other of the churches, Associations, Conferences, Boards and General Council raised by the Report. In this connection it is noted that no meetings of the Panel of Executives or Superintendents were held and also that "no meeting of the legal panel has been held" and the Committee "has not been able to make a thorough study of the legal methods."

We understand that the Report will be filed with the General Council without being submitted for its approval, because there are many areas of disagreement within the Committee itself. Notwithstanding this circumstance, the Report should be subjected to penetrating analysis and study and any criticism should be filed with the Report to avoid the appearance that the views expressed in the Report are the commonly accepted views of the fellowship. Moreover, there are many portions of the Report which describe themselves as matters which the Committee has found to be the fact and many matters which are stated as the expressions of the opinion of apparently the entire membership of the Committee. As a result, even though the General Council may not approve the Report, nevertheless present and future readers may, by reason of the filing of the Report, ascribe to these portions qualities of legal authenticity which they do not possess.

The basic premises contained in Chapters IV, 3 and IV, 4 of the Report are (1) that the churches control the "wider bodies" (the Associations, Conferences, General Council, and the Boards), (2) that the latter

are the "agents" of the churches, and (3) that the latter have only "limited" "specific" powers delegated by the churches. These premises involve and result in paradoxes and impossibilities in the operation of the fellowship, which are now non-existent and which could not exist under the fellowship principles.

It is noted that the Report does not cite the sources of its premises but treats them as established facts. The following analysis is submitted to show that they are not facts but are legal conclusions which are unsound.

Portions of the Report which reflect the foregoing premises will be listed in an Appendix.

THE "REAL DENOMINATIONAL AUTONOMY"¹

To develop a correct analysis of the relationships within the fellowship, we start with a premise upon which *all* agree: The Associations, Conferences, General Council and Boards have no power or authority of any kind over the temporal or spiritual affairs of the churches. The respective churches within their membership possess the sole power and authority in the sphere of their individual affairs. However, it does not follow from this that the *sole* source of power within the denomination is in the churches. The total power, authority and influence of the Congregational Christian denomination is more than the sum of the individual powers of the 5600 churches.

Only a few of the outward manifestations of this proposition need be cited: (a) The *Associations* are the custodians of the standing of our ministers. A church must be accepted by an Association to become a part of the fellowship. As the Committee found, (IV, 4, pars. 13, 17 and 18), the Association elects its officers, establishes its procedures, writes its own constitution, holds and administers its own property, establishes its own rules of membership, plans its own program, orders all its affairs, and may withdraw fellowship from a local church. (b) The *Conferences* perform wide functions in channeling the giving of the churches, investing funds, holding property, training ministers, establishing standards which it recommends to the churches, and having written statements of membership (IV, 4, pars. 31, 37). (c) The *General Council* determines its own program, seeks to express the common mind and to exercise leadership (IV, 4, pars. 52 and 54), all in addition to broad constitutional powers. (d) The Boards have the power to direct the investment and use of vast sums of money for missionary and other purposes, limited only by their charters and, where they exist, express trusts.

The General Council, Associations and Conferences are all authorized by their constitutions to "promote" and "foster" the fellowship of the churches; and all of these bodies express the opinion and the will of their members and make recommendations to the other bodies whether the same are adopted or not. All manage their own property, conduct

¹Bartons Law of Congregational Usage, p. 454

their own affairs, and amend their constitutions by sole action of their own members. All of these are recognized as powers and functions of these wider bodies and not as functions of the individual church, nor are the churches bound by or responsible for their actions.

The difficulty in Chapters IV, 3 through IV, 6 lies in the assumption that there is but a single mass of power in the fellowship for which a source must be found and barring the wider bodies as a source, the authors of those Sections concluded that it comes from the churches. This theory, however, fails to explain the existence of powers within the fellowship which the churches never had and could not exercise effectively.

The fact is that there are many distinct and separate powers and each has its individual source. The power to control a local church is obviously in that church. The power to give denominational recognition to a church is in the Association. The power to promote fellowship is in the Associations, Conferences and the General Council. The power to study church union, to report and to draw up plans of union is in the General Council. The power to seek, hold, invest, and expend missionary funds and pension funds, and to seek through wills, trust instruments, foundations and from any other source, funds for any of their corporate purposes, is in the Boards.

No local church has the power to grant denominational recognition to a sister church and therefore cannot delegate that power. No local church has the custody of ministerial standing within the denomination and therefore cannot delegate that power. The list can be extended by reciting all of the functions and activities within the fellowship which are generally recognized as not within the purpose, function or competence of the local church. It then becomes clear that the total power of a local church, added to that of the other 5600 churches with like power, does not begin to equal the sum of the total powers found within the fellowship.

It is therefore necessary to conclude that there are powers within the denomination which do not have their source in the local church. Stated differently, there are autonomies within the denomination other than the autonomy of the local church. These powers and autonomies relate not to the control of or by the individual church but to the wider aims and purposes of the fellowship. To epitomize — within the area of local church function, each church is autonomous; within the area of Congregational out-reach and of inter-church function, there are other autonomies which reside in the various wider bodies. In both areas the autonomy of each body is premised upon its lack of power to disturb the autonomy of any other body. Accordingly, the autonomies which exist in the wider bodies do not pretend to limit the autonomy of the local church or of the various other wider bodies. Likewise, the autonomy of the local church does not pretend to limit the autonomies of its sister churches or, for that matter, of groups of sister churches as they may be collected in Associations, Conferences and Councils. In the very nature of Congregationalism, there is no such thing as dictatorship of one body over another, or of one

person over another. "Power" no more rises from the bottom up than descends from the top down.

The powers which reside in the wider bodies originate with them and arise from the very existence of the organization and its purposes and functions. They are not old powers which theretofore resided in the churches and were delegated to the wider bodies. The Report itself found powers which, rather than being delegated, have developed out of the necessities of the situation (IV, 4, par. 51) and from usages and "commonly accepted practices" over the years (IV, 4, first paragraph). See also Burton's Manual, p. 40.

Another difficulty in parts of the Report is the inclination to think of the churches as one organism which can delegate and withhold, commit and withdraw, possess and control. Actually they are 5600 individual bodies and no church or group of churches can speak for them with authority. Any effort so to speak would be presumptuous and can be ignored or repudiated at the sole discretion of the local church.

Nor is the Report correct in finding that the powers of the Associations, Conferences and General Council are specific. In most instances their powers are to "promote" or "foster" fellowship and thus are the utmost in generality and include all matters which, in the conscience of *that* body, tend to promote the fellowship. A typical example is the by-law of the Southern California and Southwest Conference, which provides:

"The purposes of this Conference shall be to advance the Kingdom of Jesus Christ by promoting through the fellowship of the Congregational Churches of Southern California and the Southwest and by cooperating with our National Congregational Benevolent Societies." (By-Laws, Article I, "Purposes".)

William E. Barton in his *Law of Congregational Usage* recognized the differing areas of function and purpose within the denomination and the autonomies pertaining to each when he wrote (page 291) :

"As the local church has its own autonomy and all rights belonging to it as a local body are jealously to be guarded, so the churches in their district grouping have an autonomy. There are certain matters wherein the autonomy of the group is quite as sacred as the autonomy of the local congregation."

* * * *

"Congregationalism is conscious of a real denominational autonomy; the autonomy of the local church, independent within its sphere; the autonomy of district and state bodies through which the churches effect their united work and fellowship; and the autonomy of our national church organization, the National Council, and the societies, a controlling majority of whose voting members are members of the National Council." (p. 454-55)

Throughout denominational literature can be found examples of legitimate activities of the wider bodies performed under the auspices of the will of the uninstructed delegates which composed its meetings. For example, *Burton's Manual*, page 53 states:

"It (the General Council) also bears testimony to its faith through approved statements or resolutions on various topics *at its own will*."

Atkins and Fagley at page 341 state the competence of the wider bodies to act for themselves:

"Hence, as the agencies outside the local church are neither legislative nor judicial, but only administrative, any proposal for church union affects only the agency taking action. For example, when the National Council has voted to merge with the national organization of another religious body, it has not followed that the local units of either body were merged but that the cooperative agency of the Congregational churches — that is, its National Council — united with a similar agency in some other body for coordination and mutual enrichment of both."

THE WORKING ARRANGEMENT BETWEEN THE VARIOUS AUTONOMIES

Does all of the foregoing mean that the Associations, Conferences, the General Council and the Boards are without control and can, in the expression of their autonomy, whittle away at the autonomy of the churches or act without regard for the interests of the majority of the individuals and churches in the fellowship? The answer, as the history of our fellowship shows, is a categorical negative.

In the first place, a basic limitation upon the autonomies of the wider bodies is the existence of the universally recognized premise that the autonomy exists only to the extent that it does not tread upon the autonomy of the other bodies and of Congregational Christian individuals. In the second place, each of the wider bodies is controlled by a majority of its members. These members are representative of the conscience of the majority of the individuals in the fellowship throughout the nation and it is that conscience which has invariably aligned the regional and national bodies with the predominate local and national viewpoint within the fellowship at any given time. In the third place, no Association, Conference or Council can long ignore or depart from the collective will of the individuals in the fellowship without losing both their financial and moral support.

Factually and from a legal point of view, the sole control of the wider bodies rests in a majority of its members present and voting in a meeting. There is no control of those bodies in a church acting individually or in a group of churches acting as such. A church can be said to control them only

in the indirect sense that its representatives in an Association or Conference may at any given time be in agreement with other members and they may together constitute a majority of the membership voting in a meeting. This circumstance does not make the Associations and Conferences an agent of a church or of the churches as a group.

If Chapters IV, 3 and IV, 4 of the Report had been limited to demonstrating these practical indirect controls within the denomination, it would have been factually and legally sound. The Report, however, goes on to translate them into legal concepts, to state the legal relationships within the denomination and to apply to them such legal terms as "agents," "limited power," "delegated power" and "specific power." In so doing, the authors of those Sections have presented a form of Congregationalism which has never existed, which is contrary to the documents of the denomination, and which leads to patently unworkable conclusions and insurmountable paradoxes in denominational life.

THE IMPOSSIBILITIES AND PARADOXES SUGGESTED BY THE REPORT

If, as the Report says, the "wider bodies" are the agents of the churches, then these bodies are governed by 5600 principals, each of which admittedly is free to select its own Christian theology, determine its own practices and hold its own views of its relation to the wider bodies. If the Report is correct, then to which of these principals is the "wider body" "responsible"? If not all of the 5600 agree, then which conflicting view should it accept? If 1 or 100 disagree, should the "wider bodies" be "accountable" to those "Principals" or to the 5599 or 5500 which approve? Attention is drawn to a specific situation. In the case of *Cadman v. Kenyon*, the New York Congregational Christian Conference sought to file a brief in the Court of Appeals as a friend of the court for the purpose of presenting its views. 83% of its members and 79.93% of the 332 churches in the Conference had voted in favor of the Plan in The Basis of Union. Nevertheless, counsel for the Cadman Church argued that the Conference was a representative body of the churches in New York State, was "supposed to be operated for the benefit of all of them" and since, counsel alleged, five of the "large and prominent churches" in Brooklyn were of a contrary position, the Conference should not be permitted to file the brief. Here was an attempt by an individual church to create enforced "responsibility" to its views to the exclusion of the views of the other churches concerned. (The attempt failed since the Court permitted the filing of the brief.) This of course is but one example of the application of these premises to our denominational life; yet it evidences the confusion and frustration which would prevail in the organs of our fellowship.

It can therefore be seen that there is no limit to the use which could be made of the premises in this Report. The consequences are not confined to denominational unions and the ecumenical movement, but

will invade every facet of denominational life. If accepted, the functioning of the Associations, Conferences, the General Council and the Boards would become impossible.

THE NEED FOR GREATER DEFINITION

The word "agency" is an outstanding example. It is historically a word of common use within the denomination, having no particular legal significance ascribed to it. However, in the argument for the Cadman Church in *Cadman v. Kenyon*, there was an emphatic effort to give it the technical meaning of "agent" in the legal sense of principal and agent. Since the historic meaning of the word was thus questioned, it becomes important to know in which sense it is used in the Report. The word can justify its currency hereafter only if it is recognized by all as being used in its ordinary sense of a "means" or a "channel." An agency in this ordinary sense can be and usually is an independent body established for the purpose of performing certain functions and services and to which people can resort to accomplish certain purposes. The Red Cross, and similar charitable agencies, are familiar examples of bodies which are not "agents" of the public but are agencies through which the public can act. A critical examination of the documents of the denomination indicates that "agency" has always been used in this general sense and should be so read and defined in the Report.

The Report speaks at several places of the "creation" of wider bodies by the churches. To accomplish this it would have been necessary for the churches to have sent instructed delegates to the meetings at which the wider bodies were formed. Such evidence as we have indicates that they were not formed by any such delegates bearing the authority of the churches, but rather by individuals, seeking to create organizations of which the churches might avail themselves. Many of the Associations, for example, were "voluntary clubs of ministers" to which the churches eventually attached themselves. (Burton's Manual, p. 39)

The Report speaks of the Associations, Conferences and General Council as "representative bodies." The word "representative" has several possible meanings. If it is intended to mean a representative form of membership where the members come under instructions from their churches, it presupposes that the churches have already passed upon the matters to be submitted to the wider body. If it is used in the Report to mean that they are "representative bodies" in the sense that they draw from large areas and from different shades of opinion and thus produce a distillation of a collective wisdom, then the use is factually correct.

The Report speaks of the Associations, Conferences and General Council as being "responsible" to the churches. The word "responsible" may have been used figuratively to convey the fact that they seek to know the views of the members of the churches and to act in harmony

with prevailing opinion. However, if it was used to connote legal responsibility enforceable by law the Report is in error.

The Report (IV, 6, par. V) speaks of the "joint properties of our present fellowship" and "common property rights." If the words are used in a legal sense, they evidence a misapprehension of the law. There are no joint properties or common property rights. The decisions of the Appellate Division and the Court of Appeals of the State of New York, after full submission of the facts, categorically denied the existence of such properties or rights. The Court of Appeals said:

"Notwithstanding that the above listed Boards and agencies are corporations authorized and existing under the laws of several different states the plaintiffs nonetheless contend that such boards and agencies have in fact no separate and independent status because their boards of trustees, officers and administrators are drawn from the membership of the General Council and that their activities are, for all practical purposes, controlled and supervised by the General Council — that diversion of their funds and assets and mingling of same with the funds of others is in interference to its detriment in a property interest belonging to the Cadman Church and other non-*assenting* churches. This, however, is *not established in fact* as the proof shows and it is conceded, the Cadman Church has not contributed any funds, except as we have seen, for other than a general corporate purpose and these voluntarily and without restriction as to use or application. Under such circumstances it must be assumed that such funds were general gifts for use by the corporations in connection with their general corporate purposes. Such voluntary unrestricted contributions for a general charitable and religious purpose *create no proprietary or beneficial interest* warranting the civil courts in interfering in their expenditure so long as it appears that such use and application is not violative of charter purposes." (Italics ours)

The Committee believes in the principle that the General Council has no *right* to unite *itself* with other bodies where such action vitally affects the interests of the Churches (IV, 6, par. III). The difficulty with this criterion is that it means different things to different persons. To some, the Churches are vitally affected as soon as the Council departs from their individual views as to its proper conduct. We have already discussed the consequences of the theory of control which arises from this line of thought. Others still adhere to the view that the Churches have property interests in the funds of the Boards. This theory has been entirely destroyed by the decision of the New York Court of Appeals as noted above. The only acceptable interpretation, legally, is that the interests of the Churches are affected when their properties or operations are disturbed. If the Committee means this, then it is stating a near axiom of Congregationalism which all proposals for union have recognized.

THE THEORIES OF GENERAL COUNCIL POWER

In Chapter VIII, the Report lists six theories of the power of the General Council which it has discovered during its studies. There is yet another theory which the Report did not list, to wit: the position taken by the General Council in the litigation in the New York courts.

This position holds that the General Council has the power 1) to initiate, promote and promulgate plans of union, and 2) to consummate that portion of the plan which may call for its own union with the national body of another denomination.² This power is found in the usages of the fellowship, in the clear implications of the Council's stated constitutional powers and in the inherent powers which reside in all bodies, but particularly in ecclesiastical bodies that are not governed by judicaries.

This position presupposes that the General Council does not consummate a plan of union for the churches, associations, conferences and boards, nor are they bound to accept any such plan. They may, if they choose, evidence their respective approvals or ratifications by vote or by merely continuing to support the Council and the new body which carries out the plan. Moreover, continued support does not necessarily imply that they approve of all phases of the plan or that they are committing themselves, temporarily or permanently, to any procedures under the plan.

It is assumed that those who prepared Chapter VIII believed they were stating the General Council's position in the "third theory" and also in the "fourth theory." If so, they have been under a misapprehension. The differences are substantial and important. Both the "third theory" and "fourth theory" hold that the Council has the power to act for the fellowship in matters of union and they suggest no limitation of that power, except paradoxically that it is not binding on the individual church. Under these theories, the Council could not only promulgate but it could consummate the portions of the plan applying to the other bodies; and the Council's negotiations, phraseology, procedures and statements would be considered those of the churches and would be binding on them. *Such a position was not and never has been taken by the General Council*, despite repeated attempts to characterize its position as such.

Very truly yours,

WOOD, WERNER, FRANCE & TULLY

by Loren N. Wood

LNW/MC
LTW

Loren T. Wood

²As a practical matter, the plan should provide for the continued existence of the General Council, as was true under The Basis of Union, for "The Corporation for the General Council," which is trustee of various trusts, is by its charter subject to the direction of the General Council and a disappearance of the Council would create legal questions as to whether the identity or nature of the trustee of those trusts has changed.

A P P E N D I X

STATEMENTS AND CONCLUSIONS IN THE REPORT WHICH REFLECT THE PREMISES DISCUSSED IN THE FOREGOING LETTER

CHAPTER IV, 3

Par. 22: "The state conference performs its functions within defined limits."

After the quoted statement, the paragraph recites as an instance of such limitation a provision of a State Conference that it will not exercise authority over churches. Such limitation is undisputed. The implication of the paragraph is that there are other legal limitations by which the Conference is confined. The only legal limitations upon a Conference, as we have pointed out, are the provisions of its charter, usually granted by a State, which are self-imposed limitations that may be amended by the Conference without consent of any other body.

Par. 24: "The state conference elects * * * a board of directors (or trustees) which functions as an executive committee to carry out the will of the churches as expressed in the conference meeting."

Legally, the will is that of the majority of the members of the Conference and therefore is the will of the Conference. The delegates do not come instructed by the churches, nor do they return for instructions. Therefore, they do not express the will of the churches. The quotation results from confusing the spirit of the fellowship with an expression of legal powers and relationships.

Par. 29: "At the same time it [the Conference] seeks to function as the servant of the churches both in their area-wide work and in a strengthening of their own local work."

The Conference is not a servant of the churches in a legal sense as implied in this paragraph. It does seek to be helpful to the churches and their members, but there is no relationship of a master over the activities of his servant.

CHAPTER IV, 4

Par. 28: "The state conference is an administrative agency of the churches * * *. The responsibilities possessed by the

conferences are such as have been given to them by the churches which created and maintain them."

The State Conferences are not the administrative agencies of the churches in the sense that they are agents of the churches, nor do their responsibilities come from the churches. They elect their own officers, establish their own rules of procedure, write their own constitutions, hold and administer their own property, plan their own program and order all of their own affairs. The churches as such take no part in any of these activities.

Par. 31: "The administrative power given to the Conference by the churches can be withdrawn by the churches * * *."

This again presupposes the delegation of power by the churches. It also evidences the incorrect concept that the churches are an organism which can act to withdraw power from the Conferences.

Par. 37: "The state conference is the state-level administrative agency of the churches for specific and limited purposes * * *."

We have drawn attention to the fact that the powers of the Conferences are extremely broad rather than specific or limited.

Par. 48: "The General Council biennial meeting is * * * (d) *a corporate meeting* of those boards and agencies of our churches which are related to or controlled by the General Council * * *."

The time and place of the General Council meeting is used by the Boards as a convenient time for their meetings in every second year. The Boards also have corporate meetings in the intervening years without reference to the General Council. When delegates to the General Council go into the meetings of the Boards along with the 250 additional members of the Boards, they act only as members of the Boards controlled by the governing documents of the Boards.

Par. 49: "The control of the General Council by the churches is through delegates, the Executive Committee, the Advisory Committee * * *."

The control of the General Council lies solely in a majority of the delegates acting pursuant to its Constitution and By-Laws. The delegates do not come under instructions from the churches. The Executive Committee and the Advisory Committee, of course, do not control the Council, but are themselves controlled by the Council. Their members are selected by the Council and the Council may overrule or ratify their interim activities.

Par. 51: "The General Council possesses all of the powers specifically given to it by the churches."

At no time in its history or in the history of its predecessor (the National Council) have powers been given to it by the churches as such. Its powers originate with it and have been recognized by the churches through their continued support.

Par. 52: "It [the Council] is not independent of the churches."

This and the phrase the churches "guide and administer their common work on this level" presupposes a legal control of the Council by the churches which does not exist, nor are "its delegates" "responsible to the churches" or "other agencies."

Par. 57: "Thus certain wider bodies, for example, the association, are clearly and directly responsible agents of the churches * * *."

Those who hold this theory, that the wider bodies are the agents of the churches, fail to recognize that the churches then become responsible and are bound by the actions of their agents within the scope of their authority. No individual church has ever taken the position that it is responsible for or bound by the actions of the General Council or other wider bodies.

Par. 81: "The local church voluntarily elects delegates to meetings of wider bodies, and takes responsibility for the work undertaken by those delegates * * *. Every wider agency is accountable to God for its creed and conduct, but it is also directly or indirectly accountable to the churches which created it. What we have in practice is a system of direct delegate control by the churches so far as associations and conferences are concerned, a system of indirect delegate control so far as the General Council is concerned * * *."

The church does not assume any obligation for the action of any of the delegates or for the actions of the wider bodies or their members. The delegates and the wider bodies, of which they are members, cannot involve the local church in any way. The phrase "directly" accountable has already been discussed. There is no objection to the phrase "indirectly" accountable, if it is interpreted as referring to the indirect control and influence which the churches have over the wider bodies.

CHAPTER IV, 5

Par. (2): " * * * Since 1913 all denominationally-related wider agencies have been responsible to the churches through the General Council * * *. Ultimately then, the Council is

responsible to the churches and the churches through members who become delegates, control the Council."

We have previously pointed out the factual and legal errors of the conclusions quoted. The sole control of the wider bodies rests in a majority of its members present and voting in the meeting and there is no control of those bodies in a church acting individually or in a group of churches.

CHAPTER IV, 6

Par. I: "Because of the principle of the autonomy of the local church there is no way in which our Congregational Christian fellowship, including every church, can enter any union without the affirmative approval of every church."

The key phrase in this sentence is "including every church." Although every plan of union is initiated with the *hope* that all the churches will see fit to go along with the plan, no plan which is contingent upon unanimous approval would be practical, nor is such approval legally required.

Par. V: "In the event that a majority of the Congregational Christian churches vote to enter a union, and a minority of the Congregational Christian churches decide not to enter the union, it is not clear which group is entitled to status as the 'Congregational Christian churches.' This poses a problem concerning the ownership of the joint properties of our present fellowship. The Committee has found no principles or procedures in our present polity which would solve this problem. It should be pointed out, however, that if either group of churches were willing to ignore or forsake common property rights it would be free to act as it desired with regard to union. If both groups of churches agreed upon an amicable division of property each group could proceed to act as desired."

The substance of this paragraph V is, that in the event a majority of Congregational Christian Churches vote to enter a union and a minority decide not to, it is not clear which group would be entitled to the "joint properties of our present fellowship." The answer is that there are no such properties and neither the majority nor minority is entitled to own or administer them. The properties of each of the Churches, Associations, Conferences, General Council and the Boards belong to each body individually. See the decision of the New York Court of Appeals, quoted in the body of our letter.

Par. VI:

In this paragraph the words *enjoyment* of properties "in common" may have a different meaning from the "ownership of the joint prop-

erties" and "common property rights" discussed above. If so, it fails to recognize that dissenting churches may, if they wish, continue to enjoy the properties of the Boards after they have dissented just as they enjoyed them before. There are churches today that for years have disapproved of the things which the General Council has done and is doing and for that reason have refused to support it. Nevertheless, they have continued to receive the fellowship of the other churches without being affected by their dissent. Primarily, the common enjoyment which all churches now experience is the satisfaction in seeing the funds of the Boards used for benevolent and missionary purposes which appeal to them, and for which the Boards were organized. The properties must and will continue to be used for those purposes after any union.

CHAPTER VII, 2

Under the heading "LEGAL CONSIDERATIONS AND TERMINOLOGY," the first line reads:

"Upon this set of facts it is obvious that any action of Congregational Christian churches in uniting with churches of another denomination must be submitted to the vote of each individual church, just as it must be submitted to the vote of each association, conference, board and the General Council."

It is not obvious from this set of facts that the action must be submitted to the churches. There is no legal requirement for such submission. Of course, if it were desired to make any action *legally binding on the autonomous* bodies of our fellowship, it would have to be submitted to each and their consent obtained. This has always been recognized.

CHAPTER VIII

This Chapter discusses six theories of the General Council power relating to the avenues along which "our fellowship can proceed in the realization of its responsibilities and hopes in the ecumenical movement." Since most of these theories involve evaluations which no doubt will be fully debated as and when any one of them is being considered with respect to another fellowship, any comment may await that time.