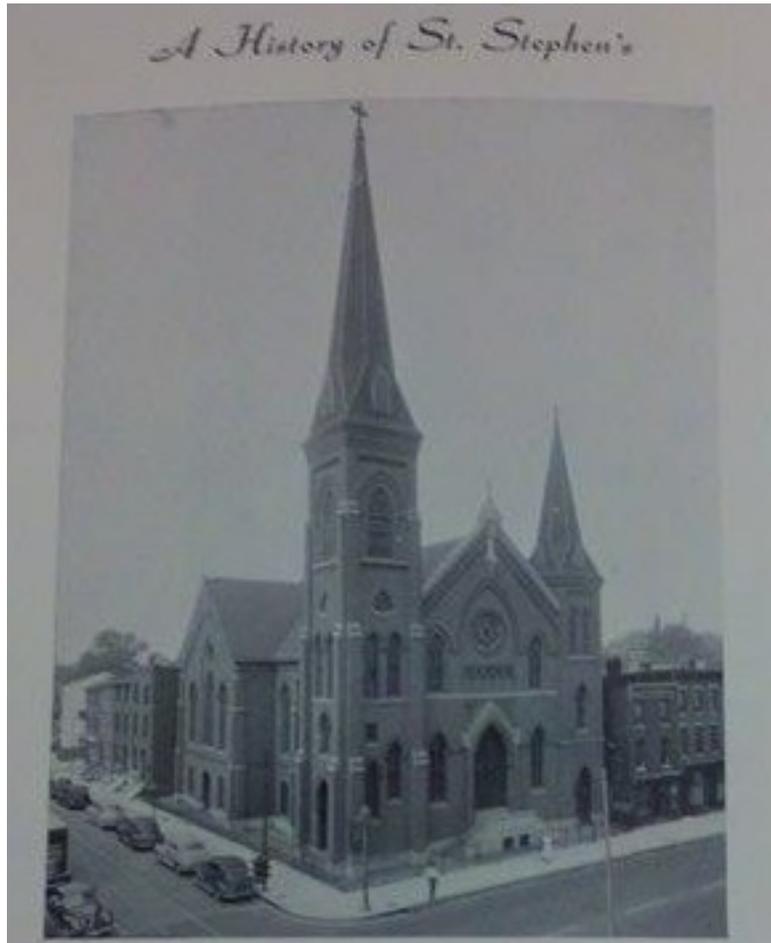


The Lutheran Church During The Civil War: The Case of Rev. Zimmerman



St. Stephen's 1920

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I. INTRODUCTION

In 1864 a pastor walked into the Superior Court of Baltimore and sued his Congregation.¹ The pastor, Reverend Leonhard Frederick Zimmerman (Rev. Zimmerman), wanted to be reinstated to his position as pastor of the St. Stephen's German Evangelical Lutheran Church (St. Stephen's), following a close vote calling for his dismissal. The Maryland Court of Appeals affirmed the reinstatement of the Rev. Zimmerman, however neither case discussed the underlying reason for his dismissal.² To uncover those reasons, wit as necessary to explore the Lutheran Church during the Civil War by studying the history of Lutheran Church, the history of St. Stephen's, and the individuals involved in the case to discover areas of conflict.

This project uncovered three potential underlying reasons for the dismissal of the Rev. Zimmerman. The first potential reason is the use of the German language in the services of the Lutheran Church. The history of the Lutheran Church and St. Stephen's, along with other references, discussed that use of the German language was an extremely contentious issue at the time. The second potential reason is the issue of slavery. Problems between Rev. Zimmerman and the Congregation started during 1863 in Baltimore, a city spilt between northern and southern supporters. The Lutheran Church itself split into Northern and Southern Branches during the War. The third potential reason relates to the prohibition of alcohol. This was another hotly contested issue during the Civil War.

The story wraps up with the second appeal. This time, the Court reversed after evidence that Rev. Zimmerman had been expelled from the General Synod for the Lutheran Church. A second aim of this project was to explore how this result affected the individual church and

¹ Civil Court Papers, First Appeal, Baltimore City Superior Court Trial Court Records at 2, available from the Maryland State Archives.

² *Weber v Zimmerman*, 22 MD 156, 169-70 (1864).

pastor and to see how this case relates to current issues in the Lutheran Church today. The tensions between pastors and congregations as well as tension between synods and congregations are visible in the history of Lutheran church. The individual case presented tension between a pastor and the congregation, which resulted in Rev. Zimmerman and members of the congregation splitting off to form their own church. During that time period, the district synods also split based on views of slavery. However, in each case there was a quick reconciliation or reunification due to the emphasis on Christian fellowship and unity. Currently, other contentious issues have divided members of the Lutheran Church. While it may be almost 150 year later, tensions bet pastors, councils, and synods arise leading initially to acrimonious results. However, if history is our guide, it is likely that the spirit of Christian fellowship and unity persist and a harmonious solution will lead the church through the next series of conflicts.

This paper will first address the initial suit of Rev. Zimmerman and the subsequent appeal by St. Stephen's. Second, it will explore the use of the German language, the issue of slavery, and the prohibition of alcohol as potential underlying reasons for the dismissal of Rev. Zimmerman. Third, the paper will examine the second appeal by St. Stephen's, the immediate results, how the church has historically dealt with contentious issues, and problems facing the church today.

II. THE CASE OF REV. ZIMMERMAN

A. The Initial Suit

On March 8th, 1864 Rev. Zimmerman filed a petition to Judge Robert Martin³ of the Superior Court of Baltimore City. The petition requested that Judge Martin issue a writ of

³ Judge Robert Nicols Martin was a Representative from Maryland for the 19th Congress from 1825 – 1826. He was born in Cambridge, MD 1798 and was admitted to the bar in 1819. Robert Martin, Biographical Directory of the United States Congress, available at

mandamus ordering the church council to restore Rev. Zimmerman as pastor of St. Stephen's. He explained that St. Stephen's was a Lutheran Church "governed by a Pastor, four Elders, and Eight Deacons elected by said congregation and church according to the constitution . . . adopted by them . . ." ⁴ Rev. Zimmerman further described that he was elected pastor of St. Stephen's in November of 1861 and was performing to the satisfaction of a majority of the congregation until he was unlawfully expelled February 7, 1864. His petition named members of the church council who prevented him from entering the church and carrying out his role as pastor.⁵

That same day, Judge Robert Martin ordered the defendants, the church council members, to show cause before March 22 as to why the writ should not issue.⁶ The council answered the petition on March 19, 1864 presenting twelve reasons why the writ should not be granted.⁷ However, ten were withdrawn by Rev. Zimmerman leaving only the third and ninth reason to be decided by the jury.⁸ The defendants asserted in their third reason that the congregation and ministers are subject to the control and authority of the Lutheran Synod of Maryland (MD Synod).⁹ In reply, Rev. Zimmerman denied that the MD Synod had any authority to investigate the charges made against him and that the proceedings removing him

<http://bioguide.congress.gov/scripts/biodisplay.pl?index=M000198> (last visited November 19, 2011). He was the son of William Bond Martin who was the Chief Judge of the Fourth Judicial District of Maryland in 1828. Eugene Fauntleroy Cordell, Historical Sketch of the University of Maryland, Medical School (1807-1890) 65 (1891). He served as chief justice of the western judicial district from 1845-1851 and was a judge on the superior court for Baltimore city from 1859-1867. He was a professor at the University of Maryland Law, Baltimore where he taught international law from 1867 until his death in 1870. Robert Martin, Biographical Directory.

⁴ Civil Court Papers at 2

⁵ *Id.* at 2-4.

⁶ *Id.* at 31.

⁷ *Id.* at 37-44.

⁸ *Id.* at 142.

⁹ *Id.* at 38.

from his office as pastor were unjust and illegal.¹⁰ For their ninth reason, the defendants claimed that Rev. Zimmerman had abused his office and violated the constitution of the church and therefore was given notice of his dismissal, which was within their right to do.¹¹ In his reply, Rev. Zimmerman stated that the council did not have the authority to give him the notice of his dismissal.¹²

The case turned upon the issue of notice. The constitution of the church discussed in detail how to call a meeting and vote on an issue. In order to have a lawful meeting, the pastor must announce the meeting before the congregation at least ten days prior with a distinct declaration of the purpose of the meeting.¹³ At the meeting, any male member of the church who was over twenty one years old, paid his contributions, participated in the Lord's Supper at least once in the last year, and had no debt owed to the Treasurer was allowed to vote.¹⁴

The meeting was announced from the pupil on December 27, 1863. The announcement stated that "on Wednesday, 13th January 1864, a congregational meeting of the male members, entitled to vote . . . [a]nd thereto are invited politely all members of the congregation entitled to vote, to be present very numerously."¹⁵ The meeting was held and the members voted sixty-two in favor of retaining Rev. Zimmerman and sixty-three in favor of dismissing him.¹⁶ Judge Martin instructed the jury that although the meeting was held as stated, the notice

was not such notice as required by the Constitution of said Congregation, the said meeting is to be considered as having been irregularly convened, [and] is to be treated as invalid, [and] that its proceedings and votes are not binding upon the Congregation or

¹⁰ *Id.* at 94.

¹¹ *Id.* at 41.

¹² *Id.* at 95-96.

¹³ *Id.* at 21.

¹⁴ *Id.* at 19.

¹⁵ *Id.* at 148.

¹⁶ *Id.* at 137.

upon the petitioner, [and] that the jury must find a verdict for the petitioner upon the 9th issue and also upon the 3rd issue.¹⁷

The Court granted the writ of mandamus, which instructed the church council to restore Rev. Zimmerman to the ministry of St. Stephen's. The outcome affected not only Rev. Zimmerman, but also other members of the church council loyal to the pastor, including John Bauernschmidt, who were also expelled on February 7th, 1864.¹⁸ The defendants submitted an appeal bond on May 20th, 1864.¹⁹

B. The First Appeal

The Maryland Court of Appeals addressed two issues in its opinion, affirming the judgment and the writ of mandamus.²⁰ First, it examined the notice given to the congregation. It reviewed the 1857 Constitution and the revised Church Rules of 1863 and found that the notice was insufficient because it failed to state the object of the proposed meeting.²¹ Judge Bowie, writing the unanimous opinion, noted that "by the constitution of [St. Stephen's] society it was necessary that notice should be given to the congregation of the object of the proposed meeting, and that . . . no intimation whatever was given that it was intended to consider the question of removing the pastor."²²

Second, the Court considered the exception of evidence from the committee of the MD Synod presented by the defendants. The Court found that the result of the MD Synod committee was merely an advisory opinion and could not be used as evidence of Rev. Zimmerman's lawful

¹⁷ *Id.* at 128-29.

¹⁸ *Proceedings of the Courts*, Baltimore Sun, Apr. 26 1864, at 1.

¹⁹ Civil Court Papers at 136.

²⁰ *Weber*, 22 Md. at 168-69

²¹ *Id.* at 168.

²² *Id.* at 169.

dismissal.²³ The only body that could authorize the dismissal of Rev. Zimmerman was the congregation and only by following the rules laid out in the constitution. Noting again that there was a lack of proper and sufficient notice of the meeting that resulted in Rev. Zimmerman's dismissal, the Court entered an order affirming the judgment and the writ on October 21, 1864.²⁴

The MD Synod committee investigation of the charges against Rev. Zimmerman resulted in four conclusions. First, the committee found Rev. Zimmerman's conduct to be unministerial and unchristian.²⁵ Second, the committee determined that the animosity between Rev. Zimmerman and the church necessitated his removal. Third, the committee recommended that the church give Rev. Zimmerman constitutional notice of his dismissal and elect a new minister. Fourth, the committee noted that Rev. Zimmerman was not charged with offenses that warranted suspension under the Synod Constitution and were referring the matter to the MD Synod.²⁶

The committee listed five reasons for finding Rev. Zimmerman's conduct unacceptable. First, he used violent, defamatory and libelous language from the pulpit and elsewhere. Second, he allowed his medical practice to interfere with his pastoral duties. Third, he publicly charged church officers with dishonesty. Fourth, he called and held several unconstitutional meetings.²⁷ Fifth, he excommunicated certain church members without a trial.²⁸

The committee report did not describe the nature of the statements issued by Rev. Zimmerman or the purpose behind the unconstitutional meetings that were held. The charges do not address the underlying issue that was causing tension among the congregation, the pastor,

²³ *Id.* at 170.

²⁴ *Id.* at 170.

²⁵ Civil Court Papers at 86.

²⁶ *Id.* at 87.

²⁷ *Id.* at 86. It was noted that he held a meeting and elected a new council. *Id.*

²⁸ *Id.*

and the church council.²⁹ Throughout the minutes of St. Stephen's, court papers, and subsequent historical writings, there is no concrete explanation for why Rev. Zimmerman was removed as pastor of St. Stephen's. However, three issues seriously disputed within the Lutheran Church during the Civil War period lead to a possible answer.

III. REASONS FOR DISMISSAL

A. German Language

The use of the German Language during religious services was an important issue in the Lutheran Church debated during the Civil War and presents one possible reason for Rev. Zimmerman's dismissal from St. Stephen's. The Lutheran Church in America was composed of mostly individuals of German decent.³⁰ In early 1800s the church began to organize itself into larger church bodies called synods, which were composed of many individual churches. The district synods then organized into larger bodies, such as the General Synod.³¹ However, in the Lutheran religion the congregation itself is the ultimate authority.³² During the growth and organization this lack of structure resulted in "violent contentions . . . over the language question."³³ Many believed that the Lutheran faith could only be taught and preached in the German language.³⁴

²⁹ *Id.*

³⁰ Charles William Heathcote, *The Lutheran Church and the Civil War* 40 (1919).

³¹ *Lutheran Roots in America*, available at <http://www.elca.org/Who-We-Are/History/Lutheran-Roots-in-America.aspx> (last visited November 19, 2011). The General Synod represented two-thirds of the Lutheran Church in America.

³² Interview with Rev. Lowell Wilson, pastor of St. Stephen's and St. James' Evangelical Lutheran Church, October 5, 2011.

³³ Heathcote at 40.

³⁴ *The Lutheran Cyclopedia* v-vi (Henry Eyster Jacobs & John A.W. Haas eds., 1899).

This issue also arose in the MD Synod, whose German population exerted great influence.³⁵ The German population strongly opposed suggestions that services be held in English.³⁶ They had two distinct views on how best to preserve German cultures and traditions against the growing influence of the English factions. One group believed they should remain in close association with the English to prevent the English traditions from moving this church away from true Lutheran tracks. The other group feared “that by close contact with English and American ideas and ideas they would lose their German individuality and be completely swallowed up by the prevailing un-Lutheran and lax tendencies”³⁷ This resulted in the latter group splitting off and creating a German Synod of Maryland in 1875, however by 1877 it disbanded.³⁸ Many congregations went so far as “to have their charters amended to require the exclusive and permanent use of the German tongue.”³⁹

St. Stephen’s congregation also believed that services should be held only in German. Like many other congregations, the constitution of St. Stephen’s adopted in 1857 contained a clause that stated “[w]e also hereby make it a fixed point, that in our church, so long as one member of the congregation wishes it, the divine services shall be held only in the German Language.”⁴⁰ When the Church Rules were laid out in 1863, this clause was retained with emphasis, reading “the Service in our Church shall be held in the German language as long as one member of the congregation shall make this demand.”⁴¹ The Church Rules also contained a supplement that laid out stipulations for the church school. The rules stated that school subjects

³⁵ Abdel Ross Wentz, *History of the Evangelical Lutheran Synod of Maryland of the United Lutheran Church in America 1820-1920* 169 (1920).

³⁶ Heathcote at 40.

³⁷ Wentz at 169.

³⁸ *Id.* at 170.

³⁹ Heathcote at 40.

⁴⁰ Civil Court Papers at 9.

⁴¹ *Id.* at 56.

were to be taught in English and German, implying that there was a desire and need for the children to learn both.⁴²

The language issue was explicitly confronted at St. Stephen's in the 1870s during the time Rev. Hennighausen was the pastor of the church.⁴³ He was one of the most influential German pastors at the time and was part of the group that worked closely with the English ministers. His refusal to join German MD Synod may have been one reason for its quick demise.⁴⁴ Rev. Hennighausen encouraged the use English but was not able to begin holding regular services in English at St. Stephen's until 1893.⁴⁵ As able and graceful as he was, he met with strong resistance from the Elders and even younger members over the introduction of English services.⁴⁶ There were more than a few families that left St. Stephen's over the issue during that incident.⁴⁷

The issue of whether or not to allow services in English was a contentious issue within the church before, during and well after the Civil War. The issued remained a point of contention within the Lutheran Church into the 1900s. In 1904, John Schaeffer, a member of the German Evangelical Church at Deer Park, MD, petitioned the court for an injunction to restrain the trustees of the church from allowing services to be held in English.⁴⁸ After he lost, he appealed to the Maryland Court of Appeals.⁴⁹ He argued that the articles of incorporation of the

⁴² *Id.* at 72.

⁴³ Rev. F. Ph. Hennighausen, *Brief Reminiscence of A Fifty Year Pastorate* 5, available from Sts. Stephen and St. James' Lutheran Church.

⁴⁴ Wentz at 170.

⁴⁵ *Reception of Congregation into the American Lutheran Church and Installation of Pastor*, Sts. Stephen and James' Evangelical Lutheran Church, Sept. 9, 1961, available from Sts. Stephen and St. James' Lutheran Church.

⁴⁶ Wentz at 172.

⁴⁷ *Id.* at 205.

⁴⁸ *Shaeffer v. Klee*, 100 Md. 264, 265, 267 (1905).

⁴⁹ *Id.* at 265.

church from 1866 stated the church services “shall always be conducted in the German language, as long as the said congregation numbers one male member, and said member shall so desire it . . .”⁵⁰ He further argued that to discontinue using the German language would result in the property reverting back to the original owners.⁵¹ The Court ultimately determined that the articles of incorporation required the church to follow the rules of the Evangelical Lutheran Church and there was no indication the Evangelical Church took a position on the use of the German language.⁵² Additionally, the Court stated that the use of language for religious services is an issue to be decided by church authority.⁵³ This case demonstrates that the Lutheran Church left the issue up to individual congregations to work out.

B. Slavery

Because this case occurred in the middle of the Civil War, it is possible that the issue of slavery caused tensions between Rev. Zimmerman and the church council. Baltimore itself was at odds over the issue, with the population split among northern supporters and southern sympathizers.⁵⁴ The German population was predominantly opposed to slavery or had nothing to do with it. In 1790, less than 4% of white German families owned slaves and Germans were the smallest proportion of slaveholders.⁵⁵

The Lutheran Church was one of the last religious denominations to take a position on the issue of slavery.⁵⁶ Until 1838 neither the records of the General Synod nor the district synods addressed the slavery issue. Other religions addressed the issue earlier. The Methodist church

⁵⁰ *Id.* at 266.

⁵¹ *Id.* at 267.

⁵² *Id.* at 270.

⁵³ *Id.* at 271.

⁵⁴ George William Brown, *Baltimore and the Nineteenth of April 1861* 33-34 (1887).

⁵⁵ Heathcote at 43.

⁵⁶ *Id.* at 48-49.

expelled any member involved with slavery in 1784. By 1844 the Methodist church had separated North and South.⁵⁷ The Presbyterian church in the North passed resolutions opposing slavery in 1787 with a division between the North and South occurring in 1838.⁵⁸

The Lutheran Church did not want to get involved in state or national politics, commenting only on church organization and doctrine.⁵⁹ The first comments came from the Franckean Synod of New York, who strongly supported the abolitionist movement.⁶⁰ This synod was the leading force pushing the Church to condemn slavery. The Pittsburg Synod, in 1846, followed this view.⁶¹ In 1861, the General Synod attempted to maintain unity and postponed its annual meeting for one year, hoping that the nation would resolve the slavery issue.⁶² However, by June the individual churches and district synods had chosen sides. The Church formally split in 1862, mostly along state lines.

St. Stephen's remained associated with the MD Synod, which remained with the Northern General Synod.⁶³ However, the MD Synod remained silent on the issue of slavery. The synod strongly supported the preservation of the union but did not think the Church should comment on "matters purely political, involving no moral issues"⁶⁴ The MD Synod did work to educate and train the black population, but only once blacks were emancipated following the war.⁶⁵

⁵⁷ *Id.* at 50.

⁵⁸ *Id.* at 52.

⁵⁹ *Id.* at 44.

⁶⁰ *Id.* at 60.

⁶¹ *Id.* at 62.

⁶² *Id.* at 65.

⁶³ Civil Court Papers at 86-87; Wentz at 125.

⁶⁴ Wentz at 125.

⁶⁵ *Id.*



Rev. Zimmerman cir. 1864

The

history of Rev. Zimmerman gives a clue to his views on slavery. Leonhard Zimmerman was born in Satteldorf, Germany in 1820, immigrating to America in 1843.⁶⁶ He was licensed and ordained by the Pittsburgh Synod in 1849, which at that time was associated with the abolitionist movement.⁶⁷ He went on to become the pastor at the First German Lutheran Evangelical Church of the Zion Community of Wheeling, WV. Because the stipend was so low, he began to practice the art of healing.⁶⁸ However, this second profession quickly consumed his time and began to interfere with his ministry. So many parishioners wanted him as their only physician and Rev.

⁶⁶ Ellis Beaver Burgess, *History of the Pittsburgh Synod of the General Synod of the Evangelical Lutheran Church, 1748-1845-1904: Together with a Brief Sketch of each congregation of the Synod* 467 (1904).

⁶⁷ *Id.* at 467; Heathcote at 62.

⁶⁸ *Anniversary Book of the First German Lutheran Evangelical Church of the Zion-Community Wheeling, WV*, available from the Lutheran Theological Seminary, A. R. Wentz Library, Gettysburg, Pa.

Zimmerman could not refuse to help them. He finally felt obligated to leave so he could “devote all of his energies to the sacred duties of an evangelical preacher.”⁶⁹ In 1858, after eight years with the parish, he departed on excellent terms for St. Peter’s Church in Monaca, Pa. Then, November 27, 1861, he was elected as the pastor of St. Stephen’s.⁷⁰ He remained with St. Stephen’s until the tension between himself and the council required him to seek legal assistance.

The counsel chosen by Rev. Zimmerman and the counsel representing St. Stephen’s also had opposing views on slavery. Representing the pastor was Elbridge George Kilbourn, a Baltimore lawyer and Maryland politician.⁷¹ Kilbourn was a secessionist who openly sided with the Southern States. In 1864, he wanted a seat on the Maryland Constitutional Convention, but withdrew because he could not take an oath that he had not assisted the rebellion.⁷² The church council chose to be represented by George Hawkins Williams, a Jeffersonian Democrat from a wealthy family.⁷³ The stance of a Jeffersonian Democrat on slavery aligned with the Northern abolitionists.⁷⁴ While the two attorneys did stand on opposite sides of the slavery issue, the individual counsel’s views on slavery do not appear correspond to the party’s they represent.⁷⁵ The issue of slavery was a current problem during Rev. Zimmerman’s case and further investigation into the views of the individuals on the church council and Zimmerman’s supporters may uncover support for the theory that slavery was the root of the dismissal.

⁶⁹ *Id.*

⁷⁰ Civil Court Papers at 30.

⁷¹ Elbridge George Kilbourn, Archives of Maryland, Biographical Series, available at <http://www.msa.md.gov/megafile/msa/speccol/sc3500/sc3520/012500/012512/html/12512bio.html> (last visited November 19, 2011).

⁷² *Id.*

⁷³ The Biographical Cyclopaedia of Representative Men of Maryland and District of Columbia 613 (Baltimore 1879).

⁷⁴ Merrill D. Peterson, The Jefferson Image in the American Mind 171 (1998).

⁷⁵ Wentz at 125; Burgess at 467; Heathcote at 62. It is likely Rev. Zimmerman was opposed to slavery and St. Stephen’s was either neutral or supportive of slavery. *Id.*

C. Prohibition

The issue of the prohibition of alcohol was another divisive issue in the Lutheran Church during the Civil War. There were views on prohibition as early as 1835 when the Virginia Synod opposed bans on alcohol. It believed that it was unreasonable to exclude wine from the sacrament, and a ban on alcohol would oppose the spirit of the Lutheran Religion.⁷⁶ Later in 1888, the Lutheran Witness published an article condemning prohibition.⁷⁷ It argued that prohibition denies that the Bible is the authoritative teacher of temperance, because the Bible authorizes the use of wine for religious services and drink offerings. Additionally, it posited that prohibition would force churches to choose whether to be loyal to the state or their religion.⁷⁸

Conversely, the General, Franckean and Southern Synod during this time passed resolutions “condemning abuses in the use of alcohol and supporting legal prohibition.”⁷⁹ The MD Synod also supported prohibition. As early as 1840 it subscribed to the belief that selling and making liquor were inconsistent with the Christian character.⁸⁰ The MD Synod met at St. Stephen’s in May 1923, where it adopted a resolution supporting enforcement of prohibition and the ban on liquor aboard Shipping Board vessels.⁸¹

St. Stephen’s also appeared to take a position on alcohol. First, the church rules of 1863 gave the church council the power to expel any member for drunkenness.⁸² However, the

⁷⁶ E. Clifford Nelson, *The Lutherans in North America* 140 (1980).

⁷⁷ J.G. Shliepsier, *Prohibition vs. The Bible and The Church*, *Lutheran Witness*, Feb. 21, 1888, at 139.

⁷⁸ *Id.*

⁷⁹ Nelson at 356.

⁸⁰ *Id.* at 141.

⁸¹ *Lutherans Indorse Harding on Dry Law*, *The Baltimore Sun*, May 24, 1923.

⁸² *Civil Court Papers* at 58.

constitution adopted in 1857 makes no mention of alcohol or drunkenness.⁸³ Second, when Rev. Zimmerman was expelled, his supporter, John Bauernschmidt was also expelled.⁸⁴

Bauernschmidt was a German American Beer Baron, whose family had many breweries throughout Baltimore. John Bauernschmidt operated a brewery at 1707 W. Pratt. St.⁸⁵ Finally, the current pastor at St. Stephen's also believes that alcohol was the root of the problem, recalling his conversations with St. Luke's pastors about a "spirited" discussion that split the church.⁸⁶



Bauernschmidt Manor House

D. The Likely Culprit

All three avenues present plausible solutions. However, there is little direct evidence that slavery was an issue at St. Stephen's and by 1864 the Maryland Synod had been aligned with the North for three years.⁸⁷ Prohibition was a contentious issue and the expulsion of John Bauernschmidt along with Rev. Zimmerman and the references to a spirited dispute hint that this

⁸³ *Id.* at 10-21.

⁸⁴ *Proceedings of the Courts*, Baltimore Sun, Apr. 26 1864, at 1. John Bauernschmidt's name is listed as John Bauersmith, but this appears to be an error.

⁸⁵ Albert Von Degen, *Baltimore its Past and Present* 20 (1887). The Bauernschmidts were also extremely wealthy, with one family possessing a Mansion on Broadway Street and another a Manor House in Middle River. B is for Beer, available at <http://essex.patch.com/articles/b-is-for-beer-in-baltimore> (last visited November 19, 2011).

⁸⁶ Interview with Rev. Lowell Wilson.

⁸⁷ See *supra* IIB Slavery.

could be the culprit.⁸⁸ However, there is no evidence in the church records during that time period to support this theory.⁸⁹

The evidence points to the issue of the German Language as being the likely cause of the conflict. The history of the Lutheran Church, the case of *Shaffer v Klee*, the specific clauses in the St. Stephen's constitution and church rules, the English services of 1893,⁹⁰ and the "unconstitutional" Sunday meetings⁹¹ allude to this as the most likely reason Rev. Zimmerman was dismissed. It is possible that Rev. Zimmerman, who seemed unable to resist the wishes of those he served,⁹² was holding English services for the members of St. Stephen's. The close vote demonstrates that he was supported by about half of the congregation.⁹³ Further translation of the entirety of the St. Stephen's council minutes⁹⁴ would be helpful to uncover additional evidence about the pastor's dismissal, as well as a translation of the records of St. Luke's Evangelical Church.⁹⁵

IV. THE LUTHERAN CHURCH: THEN AND NOW

A. The Final Appeal

The case came before the court for the final time in on the 29th of October 1865, when the church council filed a motion to supersede and quash the peremptory writ of mandamus.⁹⁶ The

⁸⁸ See *supra* IIIC Prohibition

⁸⁹ St. Stephen's Congregation and Council, Book II 1863-1879, MSA SC 4547, film no. M 1477, available from the Maryland State Archives Special Collection, http://speccol.mdarchives.state.md.us/msa/speccol/catalog/cfm/dsp_film.cfm?speccol=4547

(last visited November 19, 2011).

⁹⁰ See *supra* IIIA German Language.

⁹¹ See *supra* IIB The First Appeal.

⁹² See *supra* IIIB discussing biography of Rev. Zimmerman

⁹³ See *supra* IIA discussing Petitioner's Evidence.

⁹⁴ St. Stephen's Congregation and Council.

⁹⁵ Available at the Evangelical & Reformed Historical Society, Lancaster, PA, Record 150/179, St. Luke's German Evangelical Lutheran, St. Luke's E&R, St. Luke's UCC.

⁹⁶ *Weber v. Zimmerman*, 23 Md. 45, 55 (1865).

church council had failed to abide by the writ, but they submitted new evidence in support of their case. First, they argued that they had received an injunction from the Circuit Court of Baltimore City preventing Rev. Zimmerman from entering St. Stephen's.⁹⁷ Writing for the court, Judge Bartol⁹⁸ explained that although the church council had run to the Circuit Court and received an injunction two days after the writ had issued, "the bill failed to disclose to the Circuit Court any of the proceeding which had been taken in the Court of Appeals"⁹⁹ He concluded that an injunction gave no excuse for failing to obey a writ of mandamus issued by the Court. Further, once the writ issued it could not be stayed by an injunction.¹⁰⁰ The Court then examined the second submission by the church council.

The church council presented the court with the Report of the Committee of the MD Synod from October 1864.¹⁰¹ The report noted that Rev. Zimmerman had been suspended from any ministerial duties on June 8th pending a full report made to the MD Synod.¹⁰² The report on October 18th stated that Rev. Zimmerman had failed to abide by the suspension, established a separate organization, preached in defiance of the authority of the MD Synod, and maligned the Synod's character. The report recommended that Rev. Zimmerman be expelled from the

⁹⁷ *Id.* at 56; *City Circuit Court*, Baltimore Sun, Jul. 11, 1864, at 4. The article noted that St. Stephen's had received an injunction preventing Rev. Zimmerman and others from doing or performing acts in the name of the church.

⁹⁸ Judge James Lawrence Bartol was born in 1813 in Havre de Grace, Md. He graduated college in 1832 and studied law for four years in Bel Air, Md. before being admitted to the Bar in 1836. He married Miss. Charbounier and had one daughter. He served as associate justice on the Maryland Court of Appeals from 1857 until 1867. He continued to serve on that court as Chief Justice from 1867 until 1883. He died in Baltimore, Md. in 1887 at the age of 74. James Lawrence Bartol, Archives of Maryland, Biographical Series, available at <http://www.msa.md.gov/msa/speccol/sc3500/sc3520/001600/001625/html/msa01625.html> (last visited November 19, 2011).

⁹⁹ *Weber*, 23 Md. at 56.

¹⁰⁰ *Id.*

¹⁰¹ Report of Committee No. 1, Proceedings of the Forty-sixth Annual Convention of the Evangelical Lutheran Synod of Maryland: Held in Baltimore October 14-18, 1864 at 20 (1864).

¹⁰² *Id.*

ministry.¹⁰³ Judge Bartol found that Rev. Zimmerman was lawfully expelled from the MD Synod in October 1864 and that the Act of Incorporation of the church required the pastor to be a member of the MD Synod. Therefore, the Court concluded that Rev. Zimmerman was disqualified from the position of pastor at St. Stephen's. This fact alone provided "good cause for quashing the writ and discharging the parties from the attachment"¹⁰⁴

B. Rev. Zimmerman and St. Luke's

Although the final appeal prevented Rev. Zimmerman from returning to St. Stephen's, by 1864 he had already created a new church.¹⁰⁵ Rev. Zimmerman and his followers broke away from both St. Stephen's and the MD Synod. They moved about half a mile west and created St. Luke's German Evangelical Lutheran Church. In 1866, the actual church was built to replace the older chapel.¹⁰⁶ It is not clear what happened to Rev. Zimmerman following his involvement with St. Luke's. It appears he continued to minister in Baltimore, but his life following St. Stephen's is a mystery.

St. Luke's thrived following its inception. It eventually became an Evangelical and Reformed Lutheran Church, a Presbyterian sect that followed Luther's catechisms and the Augsburg Confession. It is similar to the Lutheran Church, but allowed for greater latitude in interpretation of doctrine and encouraged deeds instead of rigid adherence to a creed.¹⁰⁷ It also

¹⁰³ *Married*, Baltimore Sun, Aug. 17, 1864, at 2. The article notes that a Rev. Mr. Zimmerman married Louis Dentz and Annie Breuhl. This may have been an instance of Rev. Zimmerman defying the suspension issued by the MD Synod.

¹⁰⁴ *Weber* 23 Md. at 57.

¹⁰⁵ John Thomas Scharf, *History of Baltimore City and County* 578 (1881).

¹⁰⁶ *Id.*

¹⁰⁷ *Evangelical and Reformed Church*, The Columbia Encyclopedia (6th ed. 2008) available at http://www.encyclopedia.com/topic/Evangelical_and_Reformed_Church.aspx (last visited November 19, 2011)

appears that the rift between the two parishes eventually mended.¹⁰⁸ Unfortunately, in the 1980's the church dissolved, likely due to low membership or money problems.¹⁰⁹

C. St. Stephen's Church

St. Stephen's finally found some peace following so much turmoil. From 1849 when the church was founded until 1864 when Rev. Zimmerman was expelled, the church had seven different pastors.¹¹⁰ It was not until the arrival of Rev. Hennighausen in October 1864



Rev. Hennighausen cir. 1899

that the church was able to settle down. The church was in debt in 1864 and had only seventy-two voting members. Rev. Hennighausen recalled “the stormy times during the first years” and mentioned that these were the result of the dismissal of Rev. Zimmerman. However, Rev. Hennighausen was able to overcome these hardships and served as the pastor of St. Stephen's for fifty years.¹¹¹ It was under his direction that in 1893 St. Stephen's began to regularly hold services in English. It appears that the rift with St. Luke's eventually healed and by the 1920's the two parishes were on excellent terms.¹¹²

¹⁰⁸ Eighty First Anniversary St. Stephen's Evangelical Lutheran Church 1849-1930 available from Sts. Stephen and James' Evangelical Lutheran Church.

¹⁰⁹ Wentz at 204.

¹¹⁰ Rev. F. Ph. Hennighausen, at 5.

¹¹¹ *Id.* at 6.

¹¹² Wentz at 204.

For the next forty years the church again changed pastors frequently, electing a new one about every four years. Finally, in 1962, Rev. Lowell Wilson arrived and he remains the current pastor.¹¹³ At that time St. Stephen's merged with St. James' Lutheran Church and the parish remains merged today. St. Stephen's faced a more recent conflict over the decision to have the church designate a historic building, a move opposed by members of the church council.¹¹⁴ Despite the conflict, the church will receive the designation, the structure remaining just as it was over 150 years ago. Hopefully, the building will stand as a reminder, for another century, of the importance of perseverance through times of great conflict and the ability of the church as a whole to respect its differences and move forward in their faith.

D. The Church Then and Now

The Lutheran Church was a powerful force in the community during the Civil War. Once the Church took a position on slavery and the war, the individual churches began to support the cause.¹¹⁵ The pastors and church council endorsed the war publicly, holding meetings and giving speeches in support of their side. The church members created relief organizations, which raised money and supplies for the war.¹¹⁶ Some pastors even headed to the battlefield to provide comfort and services for the troops. Most importantly the churches provided soldiers who passionately joined the campaign. In Pennsylvania, for example, the majority of the regiment were Lutheran men.¹¹⁷ However, as soon as the war was over the Lutheran Church immediately began to try to repair the rift. They passed proclamations stressing the need for

¹¹³ Reception of Congregation into the American Lutheran Church and Installation of Pastor, St. Stephen and James' Evangelical Lutheran Church, Sept. 9, 1961.

¹¹⁴ Interview with Rev. Lowell Wilson.

¹¹⁵ Heathcote at 97.

¹¹⁶ *Id.* at 81.

¹¹⁷ *Id.* at 70.

rehabilitation of the south and reunification of the Church.¹¹⁸ The synods wanted to relieve the suffering and restore harmony and friendship between the Northern and Southern Branches.¹¹⁹ The result was that the Lutheran Church in 1918 was one of the first religions to reunite following the Civil War.¹²⁰ While the Church may have fanned the fire during the war, it quickly doused the flame once the war was over.

The Church once again faces very serious issues that present conflict between individual members, church councils, and synods. Currently, the Lutheran Church is divided over whether or not to accept homosexuals.¹²¹ One consequence of the current conflict is that individual congregations may again split over the issue and remove themselves from the ELCA organization. This could lead to acrimonious disputes in court over issues such as property rights to the individual church. Similar to the case of Rev. Zimmerman the courts will be forced to review church constitutions, doctrines, and again entangle themselves in church politics.¹²² In 2009, the Evangelical Lutheran Church in America (ELCA),¹²³ voted to allow homosexuals in committed, monogamous partnerships to be supported and recognized by their individual congregations.¹²⁴ At the Churchwide Assembly there was much debate over the issue, however there was also an overwhelming effort to have a respectful discussion and to remain conscious of both sides. This resulted in a resolution “committing the church to respect the differences of

¹¹⁸ *Id.* at 108.

¹¹⁹ *Id.* at 89.

¹²⁰ *Id.* at 144.

¹²¹ Interview with Rev. Lowell Wilson.

¹²² *Id.*

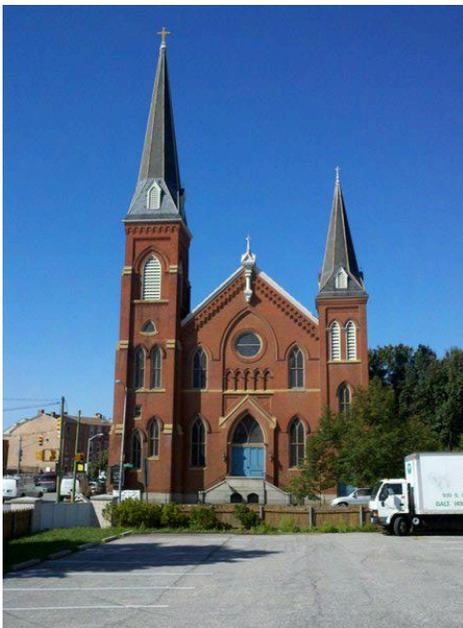
¹²³ As the Church grew, the General Synod eventually became the United Lutheran Church in America which changed to the ELCA in 1988. Lutheran Roots in America.

¹²⁴ ELCA Assembly Opens Ministry to Partnered Gay and Lesbian Lutherans, ELCA News Service Aug. 21, 2009, available at <http://www.elca.org/Who-We-Are/Our-Three-Expressions/Churchwide-Organization/Communication-Services/News/Releases.aspx?a=4253> (last visited November 19, 2011).

opinions on the matter and honor the “bound conscious” of those who disagree.”¹²⁵ This effort was an attempt to remain united and work through the conflict. While tackling another issue that could result in rift among the various congregations, the Lutheran Church tried to reach a peaceful resolution to accommodate everyone. Although the issues are different over 150 years later, the Church remains committed to providing autonomy and flexibility within the individual congregations.¹²⁶

V. CONCLUSION

The case of Rev. Zimmerman still remains a mystery. While it is likely that the Pastor was dismissed for holding services in English, the issues of slavery and prohibition present viable alternatives. Ultimately, the reason for the split presents us with an opportunity to explore how the Lutheran Church handled divisive issues during the Civil War and how that compares to its approach to conflict today.



Sts. Stephen and James’ cir. 2011

¹²⁵ *Id.*

¹²⁶ *Id.*

St. Stephen's stands today as a historic reminder to the Lutheran Church of how it has overcome serious conflicts.¹²⁷ The case of Rev. Zimmerman represents not only the individual struggle of one pastor to change his congregation but how social and political issues can change the structure and dynamics of the church. It demonstrates that by promoting Christian fellowship and unity and focusing on their faith, the Lutheran church on small and large scales can overcome conflict and animosity to move forward in a single direction, even if everyone takes a slightly different path.

¹²⁷ See *supra* IVD The Church Then and Now.