

MINUTES
COMMISSION ON CONSTITUTIONAL MATTERS
Hilton Airport Hotel, St. Louis
September 15–16, 2017

65. Call to Order, Opening Devotion

Chairman George Gude called the meeting to order with all members present except for Gerhard Bode, Sr., and Larry Peters, both kept from attendance by parish responsibilities. Tom Deadrick offered an opening devotion on Friday, based on a presentation once offered by Dr. Brighton, which focused on six Bible verses for personal evangelism. On Saturday, he offered a devotion based on Paul's words to preachers in 2 Timothy 4:1–5.

66. Eastern District Bylaws (Articles) and Regulations (Bylaws) (17-2813A)

By a June 22, 2017, e-mail the president of the Eastern District forwarded proposed Bylaws (Articles) and Regulations (Bylaws) of his district for review, with changes made in response to the commission's May 2017 review (Op. 17-2813). The commission notes that the changes indicated by May 2017 review were made by the district. The following points were also noted:

- Eastern (EA) District Bylaw 3.1.1 does not explicitly account for 2016 changes to LCMS Bylaw 4.2.2, which changes allow for district convention registration to be done ahead of time, by mail. The district may wish to incorporate this possibility explicitly, for clarity's sake.
- EA District Bylaw 3.3.2.3 does not mention the need to elect, at every other district convention, a representative to the LCMS Committee on Convention Nominations (LCMS Bylaw 3.12.3.1). Inclusion of such mention may be a helpful reminder.

The commission notes that the relationship and asset disposition language required by LCMS Bylaw 1.5.3.6 is present in the Eastern District Bylaws, which fulfill the function ordinarily performed by articles of incorporation.

The commission thanks the Eastern District for facilitating the timely review of its bylaws and regulations, which (with or without the specific changes suggested here, as the district determines) are now approved for presentation to the district convention. The district is reminded to file with the commission the versions adopted by the convention.

67. SELC District Bylaws (16-2786B)

By a March 9, 2017, e-mail, the bylaw revision committee of the SELC District forwarded the district's proposed bylaws for review. The commission notes that many of the items previously noted were dealt with satisfactorily. A few items continue to demand attention:

- Preamble, lines 19–29: Insofar as these provisions deal with congregations, they are in conflict with Const. Art. VII, to wit, "In its relation to its members the Synod is not an ecclesiastical government exercising legislative or coercive powers, and with respect to the individual congregation's right of self-government it is but an advisory body. Accordingly, no resolution of the Synod imposing anything upon the individual congregation is of binding force if it is not in accordance with the Word of God or if it appears to be inexpedient as far as the condition of a congregation is concerned." At line 20: The resolutions and acts of the district are binding on the circuits, as such, but not on the several

congregations insofar as the resolutions and acts regard their “right of self-government.” At lines 21–23: The Constitution and Bylaws of the Synod are not those of the several congregations, nor are they the primary Constitution and Bylaws of the congregations, which have their own constitutions and bylaws. At lines 24–27: Reference to “additional bylaws” and to “carrying on the work of the district” are incorrect. Circuits may adopt resolutions or regulations proper to their own administration, but have no provision for adoption of bylaws. Circuits operate under the bylaws of the district and of the Synod. The commission suggests replacement of lines 19–29 with the following text:

A circuit is “a network of congregations that “walks together” for mutual care, support, advice, study, ecclesiastical encouragement, service, coordination, resources, and counsel—all for the sake of greater congregational participation in God’s mission” (LCMS Bylaw 5.1.1).

Congregations of the district are bound by the Constitution and Bylaws of the Synod, and shall submit their constitutions and bylaws to the district for review. Congregations of the Synod and the district uphold the confessional position of the Synod, respect the resolutions of the Synod and the district, and diligently and earnestly promote the purpose of the Synod and district by word and deed. The district respects congregations’ rights with respect to the resolutions of Synod and district under Const. Art. VII.

- Bylaw 2.2.7, line 77: The word *parishes* needs to be removed. Discipline proceedings with regard to a multiple-congregation parish would be carried out at the level of the constituent congregations.
- Bylaws 3.1, 4.1, and 5.1; lines 103, 118, and 135: Clergy are not assigned “by rule” to a circuit, apart from their service of a congregation of the circuit. For regional representation, the standard is residence within the respective region (LCMS Bylaw 3.12.1). Rather than “clergy of the circuits” the commission recommends the clarifying language “clergy on the roster of the district residing within circuits.”
- Bylaw 11.6, lines 383–386: 2016 changes to LCMS Bylaw 4.2.2 should be incorporated.
- Bylaw 13.1–13.1.6, lines 628–641: The district may wish to incorporate the new procedure of LCMS Bylaw 3.9.2.2.3 [b].

The commission thanks the district for its patience with the review process and requests resubmission of the bylaws with these changes made, so that the result can be approved for presentation to the district convention.

68. Missouri District Bylaws (17-2823A)

By an August 14, 2017, e-mail, the chairman of the Missouri District bylaw drafting committee forwarded the district’s latest proposed bylaws, including changes requested by the commission (chief among which was the inclusion of basic election procedures formerly relegated to policies). The changes the commission requested in its Op. 17-2823 were made, and the language incorporated to provide procedure for election of district vice-presidents is acceptable. The commission thanks the district for facilitating the timely review of its bylaws, which are now approved for presentation to the district convention, and reminds the district to file the adopted version of its bylaws with the commission following its convention.

69. 2016 Res. 12-14-Related Changes to Bylaw Section 2.14 Standard Operating Procedures Manual (17-2837)

The commission reviewed and gave its approval to a draft prepared by the Secretary and already under review by the Council of Presidents, noting and approving of minor editorial and referential changes already made. (The manual, as reviewed by the commission and as attached to the protocol minutes, received the approval of the Council of Presidents on Sept. 18.)

70. 2016 Res. 12-14-Related Changes to Bylaw Section 2.17 Standard Operating Procedures Manual (17-2838)

The commission reviewed and gave its approval to a draft prepared by the Secretary and already under review by the Council of Presidents, noting and approving of minor editorial and referential changes already made. (The manual, as reviewed by the commission and as attached to the protocol minutes, received the approval of the Council of Presidents on Sept. 18.)

71. Minnesota South District Articles and Bylaws (17-2831)

By an e-mail of Friday, May 12, the Secretary of the Minnesota South District forwarded his district's Articles of Incorporation and Bylaws, together with changes proposed. Having reviewed the documents, the commission proposes the following changes be made:

In the Articles of Incorporation:

- Article II 2 c: "Bylaws of the Synod" should read "Constitution and Bylaws of the Synod."
- Article II 4 c: The phrase "if within the structure of the LCMS they are under the direct supervision of the President of the District" is technically incorrect (see, e.g., LCMS Bylaw 2.12.1.5). The commission proposes the following language instead: "if members of the LCMS and rostered, according to the Bylaws of the LCMS, in the District."
- Article III 2 c: an instance of "annual meeting," mentioned in connection with the expiration of terms, should likely read "regular meeting."

The commission notes that the relationship and asset disposition language required by LCMS Bylaw 1.5.3.6 and 2016 Res. 9-02A is present.

In the Bylaws:

- 4.2.15.2: The bylaw must require residency in the region throughout the course of tenure (LCMS Bylaw 3.12.1) for those holding regional positions. It should also be noted that the vice-presidential candidates must be on the district roster (LCMS Bylaw 4.3.1).
- 4.2.15.6 [e]: The reference to LCMS Bylaw 3.10.5.2 [7] should be updated to Bylaw 3.10.6.2 [7-8].
- 4.2.16: The district may wish to allow for electronic distribution of these materials under LCMS Bylaw 4.2.1 [g].
- 4.5.5.1: The proposed addition contradicts LCMS Bylaw 3.12.1. Regional membership must be determined by residency, not by congregational membership.
- 4.5.16 (as proposed): While the district is free to apply the procedure of LCMS Bylaw 1.5.8-1.5.8.1 to "full-time assistants...chaplains and others," the removal of officers must be effected by the exact procedure specified in LCMS Bylaws 1.5.8-1.5.8.1. The role of the presidium (except as members of the board of directors) is unclear in the proposed Bylaw 4.5.16, and the mention thereof should probably be removed.

It is also noted that the addition of “persistent adherence to false doctrine and practice” and “unchristian life” is contrary to LCMS Bylaw 1.5.8. These would be cause not only for removal for office but *also* removal from membership in the Synod.

It may be helpful to differentiate, using two separate bylaws, between the procedures for removal of officers and removal of other employees. The commission also notes for comparison LCMS Bylaw 3.11.1, which indicates that all employees other than officers serve “at the pleasure of the appointing authorities.”

- 4.5.18.2.7: A pastor, even of a subsidized congregation, cannot be required to consult the district president upon receipt of a call (however advisable such consultation may be). Congregations are to consult the district president upon a vacancy, but even a subsidized congregation cannot be *compelled* to follow call process guidelines set by the district (CCM Ag. 1573; Op. 99-2171, 05-2437), other than that the congregation consult with its district president (LCMS Bylaw 2.5.1). (See Const. Art. VII.)
- 4.11.3.1: The commission notes again LCMS Bylaw 3.11.1, which indicates that all employees other than officers serve “at the pleasure of the appointing authorities.”

The commission thanks the district for its patience with the review process and requests resubmission of the bylaws with these changes made, so that the result can be approved for presentation to the district convention.

72. Southern Illinois District Articles of Incorporation (17-2842)

The Secretary of the Southern Illinois District forwarded his district’s proposed Articles of Incorporation for review. The commission notes at Article II c that Bylaw 1.5.3.6 [a] requires the statement that “All provisions of [the district’s] Articles of Incorporation and Bylaws are subject to the provisions of the Constitution, the Bylaws, and the resolutions of [The Lutheran Church—Missouri] Synod.” Such a statement should be included as replacement for (or in addition to) the existing language of Article II c, as it makes clear that not only the operations of the district but also the interpretation of the governing documents themselves are to be undertaken in a manner governed by Synod’s documents.

The commission approves the proposed restated articles for presentation to the district convention as consistent with Bylaw 1.5.3.6 and 2016 Res. 9-02A, contingent on inclusion of such a change. The district is reminded to file the adopted version of its articles with the commission following its convention.

73. Term Limits and Regional Offices (17-2850)

A member of the Synod has addressed a question to the commission regarding the relationship between term limits for various officers and boards and a restructuring of regions of a district having the potential to place an officer or board member in a different region. The situation is as follows: A district by convention action has rearranged the regions in which its congregations are placed. This same district has established term limits for regional officers and regional representatives to its board of directors.

Question: Does the convention action realigning regional membership remove the accumulation of service time as it is counted toward the limitation of terms? That is, if a regional officer or board member is ineligible for reelection to that same regional office or board membership because of term limits, would a realignment of the regions placing him *in a different region* restore his eligibility? (Additional questions were asked in case of an affirmative opinion.)

Opinion: The answer to the question submitted is *no*. Changing to a different region does not eliminate the terms served in the old region in determining cumulative service for the purpose of term limits. Even though they are from different regions, all regional vice-presidents are considered to be holding essentially the same office (district regional vice-president), and all regional board members of a given board are considered to be holding the same office (members of the given board).

74. Oklahoma District Articles and Bylaws (17-2832)

By a May 17, 2017, e-mail, the Secretary of the Oklahoma District sent the Bylaws of his district along with proposed revisions to the section dealing with Camp Lutherhoma and the Lutherhaven Retreat Center (a.k.a. Camp Lutherhaven). Noting its concern about the present state of bylaw adoption (the bylaws have apparently been treated as a “work in progress” for some years), the commission understands the intention of the district to be that its 2018 convention will adopt the Bylaws as presented as a whole, so that these will be the bylaws of the district until amended by the bylaw-authorized process.

The commission notes that the district’s Articles of Incorporation (dated June 30, 1980, reviewed from the commission’s files) do not contain either the relationship or asset disposition language required by LCMS Bylaw 1.5.3.6 and 2016 Res. 9-02A. The district will need to revise its articles in accordance with these requirements, subject to review by the commission, in its 2018 convention process.

With regard to the bylaws, the commission notes that the changes it requested in July 2015 (Op. 15-2767) have been incorporated. Attention will be required at a few other points:

- Bylaw III 3 h (“Reconcilers”): The word “pastors” should be replaced with “ministers of religion—ordained,” as in LCMS Bylaw 1.10.10.
- Bylaw III 4 a: The sole criterion for region membership is residence within the boundaries (LCMS Bylaw 3.12.1). Here congregational membership or service is added, contrary to the LCMS Bylaw.
- Bylaw III 5 a: 2016 changes to Synod’s Bylaw 1.10.10 need to be incorporated here.
- Bylaw IV 2 (“Nominations”): The sentence, “Each member congregation shall be entitled to nominate, from the roster of ordained ministers of religion of the Synod, two (2) candidates from the district for president and (2) candidates from the district for first vice-president.” should read, “Each member congregation shall be entitled to nominate, from the roster of ordained ministers of religion of the Synod, two (2) candidates ~~from the district~~ for president and, from the roster of ordained ministers of religion of the district, (2) candidates ~~from the district~~ for first vice-president.
- Bylaw VI: Note changes to LCMS Bylaw 3.9.2.2.3 [b], which provides the procedure for a board of directors to complete changes made by a convention to proposed bylaw amendments. The district may wish to note or incorporate this feature in its own bylaws.
- Appendix F (Job description for district president): This section must note that the *primary* responsibilities of the district president, not fully enumerated here, are given in the Constitution and Bylaws of the Synod.

The commission thanks the district for its submission and looks forward to reviewing revisions of bylaws addressing these points, so that the result may be approved for submission to the district

convention. The commission also looks forward to reviewing a revision of the district's articles, which would bring them into compliance with Bylaw 1.5.3.6 and 2016 Res. 9-02A.

75. *Standard Operating Procedures Manual for Seminary Complaints and Dispute Resolution* (17-2845)

The commission reviewed and gave its approval to a draft prepared by the Secretary. The draft was prepared on the basis of the 2012 *SOPM*, which in turn was based on the last *SOPM* developed by the Board for Pastoral Education. This draft incorporated salient points of Op. 16-2798A, regarding which bylaw process is to be followed in various situations, as well as changes to bylaw numbering and a few changes for consistency and clarity. Notably, the requirement of an “appeal process for use by faculty members of a continuing-level appointment...who wish to challenge a termination decision” (Bylaw 3.10.5.7.4 [i]) is carefully correlated to the procedure of Bylaw 3.10.5.7.9. Following the meeting, the Secretary shared the draft with the seminaries' presidents and board of regents chairmen for adoption and use.

76. *Model Operating Procedures Manual for College and University Complaints and Dispute Resolution* (17-2848)

The commission reviewed and gave its approval to a draft prepared by the Secretary in consultation with the Concordia University System (CUS). The draft is a model policy developed from pre-existing bylaws and policies, the adoption of which by the colleges and universities will satisfy in a uniform way the bylaw requirements (of boards of regents) that they have in place policies for handling of faculty disputes and termination challenges (Bylaws 3.10.6.7.1, 3.10.6.7.5–5.1). The policies will be presented by CUS to the system colleges and universities for study and adoption as policies pre-approved by the CCM. Colleges and universities may adopt their own, distinct policies—but these must be in accord with the Bylaws of the Synod and are required to be submitted to the CCM for review.

77. *Correspondence Related to Op. 16-2791, “Constitutionality of Historical Appeal to President and Praesidium in Expulsion Cases”* (17-2841)

A pastor of the Synod sent the commission a detailed statement of his objection to the conclusions of CCM Op. 16-2791, which the commission understands to constitute a request for reconsideration. A careful review of the observations offered revealed no objections that have not already been treated in detail in the original development of Op. 16-2791 and reviewed in further detail in subsequent responses, including Op. 16-2828. The commission thanks the pastor for the correspondence but finds in it no substantive rationale upon which to reconsider its earlier opinions.

78. *English District Bylaws* (17-2833)

By a May 22, 2017 e-mail, the Secretary of the English District forwarded his district board of directors' proposal for revision of the district's bylaws. The commission noted a need to review the district's operating manual (mentioned under Bylaws II E and VIII H), especially as it touches on nominations processes. Under Bylaw XI, the district is advised that it may wish to incorporate changes to LCMS Bylaw 3.9.2.2.3 [b], allowing for BOD to finish bylaw revision amended by the convention.

The commission approves the bylaws as submitted, with appropriate changes to implement the suggestion under XI if desired, for presentation to the convention, thanks the English District for its cooperation in the bylaw review process, and reminds it to file the adopted version of its bylaws

with the commission following its convention. The commission also looks forward to reviewing the district's Articles of Incorporation, understanding these to be presently being revised to bring them into compliance with Bylaw 1.5.3.6 and 2016 Res. 9-02A.

79. North Wisconsin District Articles and Bylaws (17-2834)

By a June 8, 2017, e-mail, the President of the North Wisconsin District forwarded for review his district's Articles of Incorporation and proposed bylaw revisions. Upon review, the commission found the articles to satisfy LCMS Bylaw 1.5.3.6 and 2016 Res. 9-02A. In the bylaws, the commission noted the following points at which attention will be required:

- Bylaw 1.03 (a): The district may be well-advised to restate membership qualifications (a) and termination conditions (c) in simpler terms, such as “Membership in the district is as defined and assigned according to the Constitution and bylaws of the Synod,” and “Membership in the district may be terminated as specified in the Constitution and bylaws of the Synod.”
- Bylaw 3.04 (a): Bylaw 1.5.8 does not provide procedure for removal from office of a district president. Const. XI A 2 applies here, but without specific procedure.
- Bylaw 3.04 (b): A deemed resignation after two unexcused absences is incompatible with the procedures specified in LCMS Bylaws 1.5.7 for board and commission members (not individually officers) and 1.5.8 (dealing with officers other than the district president).
- Bylaw 4.01 (d): Synod's bylaws allow convention materials to be distributed electronically, a practice the district may adopt if it wishes.
- Bylaw 4.04 (a): Const. Art. XII 14 specifies a different (and much lower) quorum.
- Bylaw 5.04 (a): Eligible nominees for regional vice-president are those ministers of religion—ordained on the roster of the *district* (not Synod) *residing* (not residing and serving congregations) in the region. With these changes, there is no need to mention the emeriti separately. The phrase “residing in each given region” should be appended to the first sentence, and the second sentence should be removed.
- Bylaw 5.04 (d): The district should use the procedure of Bylaw 3.12.2.7 [g], whereby ranks are determined by successive ballots (so that each election is by a majority, not simply a plurality).
- Bylaw 6.03 (a): The Commission on Constitutional Matters is the interpreter of the Constitution of the Synod (which is that of the district) and of the Bylaws of the Synod. As to the Articles, Bylaws, and resolutions of the district, members of the board of directors (cf. NW District Bylaw 2.02 e) may be put in a difficult position if they are interpreting these as to the board's own responsibilities. While it is allowable for the convention to assign this responsibility to the board of directors or a committee thereof (Bylaw 4.5.1) in district bylaws, it may be wise to establish an independent committee or commission to interpret district documents authoritatively.
- Bylaw 6.04 (a): The district may wish to incorporate the changes to LCMS Bylaw 3.9.2.2.3 [b].

The commission thanks the North Wisconsin district for its cooperation with the bylaw review process and looks forward to reviewing a subsequent draft of the bylaws, in which these points have been addressed.

80. Constitutionality of Proposed District Resolution (17-2851)

On behalf of a circuit forum, a member of the Synod submitted to the commission for its approval an overture adopted by that circuit forum for presentation to the convention of that district.

The first *resolved* of the overture calls on the district to “return to limited terms for the District President not to exceed three consecutive terms of three years.” The second *resolved* makes the term limit effective with the 2018 convention.

The commission notes that Bylaw 4.7.5, as it deals with terms of office of district officers and boards, states: “Limitations of tenure, if any, may be determined by a district.” Thus if a district adopted a resolution to place in its bylaws a limitation of three consecutive terms for the office of district president, as this overture suggests, that resolution would not be in conflict with the Bylaws of the Synod.

However, the proposed overture adopted by the circuit forum does not provide any bylaw language to which the commission could give its approval. To give its approval, the commission needs to be provided with a proposed bylaw which incorporates this change and indicates how the current bylaws will be altered.

Therefore, based on the information the commission has received, at this point, the commission can only indicate that the proposed change to the bylaws advocated by the overture from the circuit forum does not contradict the bylaws of the Synod.

81. Kansas District Articles and Bylaws (17-2844)

By an August 8, 2017, e-mail, the Secretary of the Kansas District forwarded his district’s proposed bylaw revisions, together with the district’s Articles of Incorporation. The commission noted that the articles contain neither the relationship nor the asset disposition language required under Bylaw 1.5.3.6 and 2016 Res. 9-02A. The district is reminded of the need for its articles to be revised, under the commission’s review, in the current triennium. The noted district operations manual will also need to be reviewed by the commission.

With respect to the bylaws, the commission noted the following:

- Bylaw III 1 a: “Chief executive” (Bylaw 4.4.1) is preferable to Chief Executive Officer, which has corporate connotations carrying a certain breadth of power and relationship to the Board of Directors. It is unclear what it means that he is responsible “for oversight of all functions of the Board of Directors.” Perhaps it would be clearer to say that he is responsible, “as top staff administrator, for oversight of staff carrying out the directives of the Board of Directors.” The district may wish to compare the definitions of *oversight* and *supervision* in LCMS Bylaw 1.2.1 “o” and “t” in consideration of a precise wording. Later, “congregations and professional workers” would be better stated “congregations and ordained and commissioned ministers.”
- Bylaw III 1 b: The proper criterion for region membership is residence alone, without regard to congregational membership in the region. “All officers and members of boards shall be members of member congregations of the district and, when appropriate, residents of designated regions during the course of their tenure” (LCMS Bylaw 4.3.3; Cf. LCMS Bylaw 3.12.1 [b]).
- Bylaw III 1 e: It should be noted that nomination and election of circuit visitors are “as prescribed by the Bylaws of the Synod.”

- Bylaw III 2 a: Actions using electronic ballot must be taken in accordance with the LCMS Board of Directors policy manual (Bylaw 1.5.3), which should be compared to the procedure here specified.
- Bylaw III 3 a: The district may wish to strike the second instance of *elective*, as well as the first.
- Bylaw III 4: Responsibility to a board of directors extends only so far as business, legal, and property matters, as delineated in the Bylaws. Officers in general are responsible to the convention of the district (Const. XI A 1) and, as regards ecclesiastical supervision, to the President of the Synod.
- Bylaw III 5: The standard “does not interfere with responsibilities of the elected office” is a subjective one. The language of LCMS Bylaws 1.5.1.1–2 should be reproduced in a more verbatim form or simply referenced here.
- Bylaw IV 2 c: It seems, if the commission understands the language properly, that the specified procedure could likely result in a single nomination for a given position, if a single candidate receives more than half the nominations. A procedure should be adopted that will ensure at least two candidates on the ballot in any given position (Cf. Bylaw 3.12.3.6 [a]).
- The commission notes the absence of bylaws dealing with the conduct of elections at the convention. These procedures should be set forth in the district bylaws, as Synod election procedures (e.g., for the President of the Synod) do not naturally translate to the district level. Unless otherwise specified, the Bylaws of the Synod *are* the bylaws of the district.
- Bylaw V 1 a: The pastor representing a congregation is not *any pastor elected* but *the pastor of (serving, called by) the congregation* so designated (Const. Art. XII 10 A).
- Bylaw V 2: Should be retitled “District Ordained and Commissioned Minister Conferences.”

The commission thanks the Kansas District for its cooperation in the bylaw review process and looks forward to reviewing a subsequent draft of the district’s bylaws and articles, in which these points have received the necessary attention.

82. Iowa West District Articles and Bylaws (17-2846)

By August 15 and 16, 2017, e-mails, the chairman of the Iowa West District Handbook Committee forwarded his district’s proposed articles and bylaws for review.

The proposed district articles of incorporation satisfy the requirements of Bylaw 1.5.3.6 and 2016 Res. 9-02A. The proposed articles are approved for presentation to the district convention for adoption.

Regarding the proposed bylaws, a few points continue to require attention:

- Bylaw 1.10: It is noted that LCMS Bylaws 1.5.8–1.5.8.1 do not provide for the removal of one of the district officers: the district president. The district may wish to clarify that this section deals only with other officers.
- Bylaw 2.4.4: The district is advised to reproduce the language of LCMS Bylaw 4.2.3: “All nonvoting ordained and commissioned members who are members of the Synod within the district shall serve as advisory delegates.”

- Bylaw 2.4.8.1 requires revision to comply with LCMS Bylaw 4.2.2 [a]. In Bylaw 2.4.8.2, an alternate could be made the delegate before the convention, should the need be known, by submission of the information in advance.
- Bylaw 2.8.8.1: “if possible” should be removed. Bylaw changes require (LCMS Bylaw 3.9.2.2.3 [a]) prior approval, but can be modified from the floor (LCMS Bylaw 3.9.2.2.3 [b]).
- Bylaw 2.9.1 does not accurately reflect the wording of LCMS Bylaw 4.2.2 [a].
- Bylaw 2.10.4: There is no stipulation from the Constitution and Bylaws of the Synod that the voting privilege is contingent on payment of the fee or assessment. With sympathy to the district’s concern, this regulation is impermissible.
- Bylaw 2.10.6: The commission notes with regard to the phrase “retired... (except those *serving* a congregation or multi-congregation parish)” the suggestion that “those ordained and commissioned ministers having *emeritus status*” would seem more clearly to accomplish the district’s apparent intent.
- Bylaw 2.12.2.1: The reference to LCMS Bylaw 4.4.2 [a] seems to be mistaken.
- Bylaws 3.1.1–4: The circuit visitors are omitted (Cf. LCMS Bylaw 4.3.1).
- Bylaws 3.9.4 [h] and 4.4.3–3.4: Electronic voting and meetings must be conducted according to LCMS Board of Directors policies, not simply according to rules of order (LCMS Bylaw 1.5.3). Vote by e-mail, for example, requires unanimous participation and a unanimous favorable vote.
- Bylaw 9.5: Election every other triennium of a member of Synod’s Committee for Convention Nominations (3.12.3) should be allowed for.
- Bylaw 3.9.6: In the event of a permanent succession of the vice-president, he is not the *acting* president (the same issue occurs in the succession of vice-presidents). This word should be removed (he can serve on a part-time basis). It is noted that the part-time status is mandated. As a suggestion only, it might be advisable to allow the board and a succeeding vice-president the flexibility to serve on a full-time basis if this is possible for him and profitable for the district.
- Bylaw 3.11.1 [j]: It should be clarified that the district secretary does not have the authority, unilaterally, to change the bylaws of the district after a Synod convention. It is possible for the district to implement something like LCMS Bylaw 7.1.2, by which the board of directors could adopt those district bylaw changes “expressly directed” by a Synod convention.
- Bylaws 5.1.1–5.1.1.2 (and similarly for subsequent committees): Perhaps “at least” should be restored in Bylaw 5.1.1, taking into account Bylaw 5.1.1.2, or the possibility of additional membership (voting and non-voting) should be noted for clarity.
- Bylaw 8.2.7: District bylaws 1.10.1–2 and LCMS Bylaws 1.5.8–1.5.8.1 are not applicable here, as they deal with officers. The commission also notes for comparison LCMS Bylaw 3.11.1.
- Bylaw 8.3.1: The reference to Const. Art. XII 6 is of uncertain purpose or significance.
- Bylaw 9.5: Somewhere the need to elect, at every other convention, a representative to the LCMS Committee on Convention Nominations, should be included.
- Bylaw 9.6.3.2: The listing of nominees in numerical order conflicts with LCMS Bylaw 3.12.4.1 and needs to be changed to alphabetical order, without distinction.

- Bylaw 9.7.3: The allowance of this paragraph should include the possibility that a circuit failed to select a circuit visitor in the first place (cf. LCMS Bylaw 5.2.2 [f]).
- Bylaw 10.1.4: “Expected” should read “required.”
- Bylaw 10.1.5: Attendance is obligatory for *all* ministers.
- Bylaws 11.1.2 and 11.1.4: As formation of electoral circuits from geographically adjacent visitation circuits is to be determined according to stated criteria by the district board of directors (LCMS Bylaw 3.1.2 [a]), the designation of specific electoral circuits should be removed from the Bylaws.
- Bylaw 13.7.1: Floor amendments to bylaw proposals should be subject to the same affirmative majority as other amendments. “All other matters shall be decided by a majority vote.” (Const. Art. VII C and Const. Art. XIV)

The commission thanks the Iowa West District for its cooperation with the bylaw review process and looks forward to reviewing a subsequent draft of the bylaws, in which these points have received the required attention.

83. Montana District Bylaws (17-2847)

By an August 16, 2017, e-mail, the President of the Montana District forwarded his district’s proposed bylaw revisions for review. The commission notes that the district Articles of Incorporation on file with the commission satisfy Bylaw 1.5.3.6 and 2016 Res. 9-02A as to both relationship and asset disposition language. With regard to the bylaw proposal, four points may require further attention:

- Bylaw 1.3.2 [n] and elsewhere: “circuit counselor” should be “circuit visitor.”
- Bylaw 2.2.1.1: The commission notes the specific designation of the district president’s duties in the Constitution and Bylaws of the Synod (e.g., Const. Art. XII 7–9 and Bylaws 4.4.1–4.4.8), and not only in proportion to those of the President of the Synod (presumably as expressed in Const. XII 6). Elaboration of this twofold description of the office (as proportional but also specifically defined) would be desirable.
- Bylaw 3.1: The district may wish to reflect changes to LCMS Bylaw 3.9.2.2.3 [b], to provide a procedure for amendment of proposed changes.
- In the change to Bylaw 2.2.6.7 [c], the commission suggests ending the first sentence “...shall not exceed the expected income of the district combined with cash reserves on hand at the end of the previous fiscal year.” and striking the next sentence (“The expected income...”). While the proposed language is not contrary to the bylaws, the suggested change would preserve the proper sense of “income.”

The bylaw proposal is approved, contingent on the first two points being addressed, and with or without appropriate changes addressing the latter two points, for presentation to the convention. The commission thanks Montana District for its cooperation in the bylaw review process and reminds it to file the adopted version of its bylaws with the commission following its convention.

84. North Dakota District Bylaws (17-2853)

By a September 6, 2017, e-mail, the chairman of the North Dakota District bylaw revision committee forwarded proposed bylaw revisions for review. The commission notes the following items requiring further attention:

- Bylaw 2.1.3.1: The inclusion of *circuit visitors* here is redundant with their mention in Bylaw 2.1.2.
- Bylaw 2.1.5.1: The commission notes a possible amendment regarding term limits, which is acceptable.
- Bylaw 2.2.1 [b]: The commission notes that it may be helpful to indicate that the responsibility for business, legal and property matters delegated by the board of directors to (or through) the district president ultimately remains with the board of directors.
- Bylaw 2.2.1 [k]: This is the pre-1983 language and should better reflect the language of LCMS Bylaw 4.4.7.
- Bylaw 2.2.1 [l]: The constitutional reference, which is generally ecclesiastical-supervisory, does not match content, which is generally administrative. *Chief executive* is preferred (Bylaw 4.4.1) to *chief executive officer*, which imports corporate connotations.
- Bylaw 2.9.9.1: The procedure for election of circuit visitors needs to be updated to accord with 2016 LCMS Bylaw 5.2.2.

The commission thanks the North Dakota district for its cooperation with the bylaw review process and looks forward to reviewing, in its November meeting, a subsequent draft that has addressed these points of concern. The commission also reminds the North Dakota district that its articles need to be revised into compliance with LCMS Bylaw 1.5.3.6 and 2016 Res. 9-02A. The commission looks forward also to reviewing draft articles, if possible, at its November meeting.

85. Wyoming District Articles and Bylaws (17-2852)

By an August 29, 2017, e-mail, the Secretary of the Wyoming District forwarded his district's Handbook (Articles, Bylaws, and Policies), with a few proposed changes, for review. The commission notes the following.

Regarding the Articles of Incorporation:

- Art. V: Membership should be clarified to be *Voting* membership, or expanded to include the Synod member ordained and commissioned ministers on the roster of the district.
- Art. VII: Note should be made that prior approval by the Commission on Constitutional Matters is required.
- As to Bylaw 1.5.3.6 and 2016 Res. 9-02A, the commission notes that the requirement of LCMS Bylaw 1.5.3.6 [b] for asset disposition language is satisfied in Art. VI, but that the language of LCMS Bylaw 1.5.3.6 [a] ("all provisions of [the district's] Articles of Incorporation and Bylaws are subject to the provisions of the Constitution, the Bylaws, and the resolutions of Synod in convention") must be incorporated in a more intact and recognizable manner than it is in Art. II.

Regarding the Bylaws:

- References to 2010 *Handbook* should be removed throughout. Where possible, a general reference "as specified in the Bylaws of the Synod" prevents a need to update references.
- Bylaw 3.05: Changes in LCMS Bylaw 4.2.2, regarding delegate registration, should be incorporated.
- Bylaw 3.17: The district may wish to take advantage of the option of electronically distributing convention materials.
- Bylaw 3.29 [c]: This bylaw is inconsistent with the interpretation of LCMS Bylaw 3.12.1 [b] in CCM Op. 13-2669: "[W]hen a regionally elected board member or officer relocates

to a different region..., this member must resign from the officer or board member position.”

- Bylaw 3.401 [d]: Congregational bylaws also need to be examined (they are noted as recommended for approval in another bullet).
- Bylaw 5.01 [b]: These changes, as well as those under 5.01 [a], must be reviewed in advance by the Commission on Constitutional Matters, as indicated later in 5.03. The district may wish to allow changes required to implement resolutions of the district or Synod conventions in this manner.
- Bylaw 5.03: The district may wish to incorporate changes made to LCMS Bylaw 3.9.2.2.3 [b], and in general may wish to adopt or reference the exact language of the LCMS Bylaws regarding amendment procedure.

The commission thanks the Wyoming District for its cooperation in the bylaw review process and looks forward to reviewing a subsequent draft in which these issues have been addressed. The commission notes that it will treat review of the attached policy manual separately, under agenda item 17-2852A.

86. Nebraska District Articles and Bylaws (17-2854)

By a September 7, 2017, e-mail, the President of the Nebraska District forwarded his district’s proposed Bylaws for review. The commission notes the following points at which further attention is required:

- Bylaw III A: The language of LCMS Bylaw 4.1.1.2 is to be preferred as clearer: “The Constitution of the Synod is also the constitution of the district. The Bylaws of the Synod shall be primarily the bylaws of the district.”
- Bylaw III C 2 A 4: The phrase “for the board of directors” seems to be out of place and should be removed. Vice-presidents are officers in their own right, who serve *ex officio* on the board.
- Bylaw III C 2 A 3 e: It may be helpful to reference the need to approve credentials of those nominated for a board of regents (LCMS Bylaw 3.10.6.2 [8]). Later, Bylaw III C 2 A 6 b should read, “All eligible persons...” to accommodate this review and approval.
- Bylaw III C 3 C 1 (a) and 2 (a): The district president should be specified as being from the clergy roster of the Synod and the regional vice-presidents as from the clergy roster of the district, with residence within the respective region.
- Bylaw III C 3 D 2 b: Synod has rejected this method of ranking, which does not generally constitute election by a majority, in favor of a series of majority votes establishing the various ranks (LCMS Bylaw 3.12.2.7 [g]).
- Bylaw III D 1: The constitution committee also needs to review congregation bylaws and bylaw revisions (LCMS Bylaws 2.2.1 [b], 2.4.1[b]).
- Bylaw IV B 1 A: Circuit visitors are officers of the district (Bylaw 4.3.1) and should be indicated consistently as such.
- Bylaw IV D 2: *Chief executive* is to be preferred to *chief executive officer*. In what follows “chief executive” (administrative) duties are here intermingled with ecclesiastical supervisory duties, which are his primary task. Compare LCMS Bylaws 3.3.1.1–3.3.1.3 for a more helpful organization of duties into ecclesiastical, administrative, and administrative/ecclesiastical areas. This helps, among other things, clarify the president’s

relationship to the President of the Synod and to the board of directors and convention of the district.

- Bylaw V: The district may wish to incorporate changes to LCMS Bylaw 3.9.2.2.3 [b] to allow for changes from the floor and subsequent adoption by the Board of Directors.

The commission thanks the Nebraska District for its cooperation in the bylaw review process and looks forward to reviewing a subsequent draft in which these issues have been addressed. The commission also notes a need to review the Nebraska District Articles of Incorporation for compliance with LCMS Bylaw 1.5.3.6 and 2016 Res. 9-02A.

87. South Dakota District Articles of Incorporation and Bylaws (17-2849)

By August 15 and September 6, 2017, e-mails, the President of the South Dakota District forwarded the district's Articles of Incorporation and Bylaws for review. The changes proposed to the articles satisfy LCMS Bylaw 1.5.3.6 and 2016 Res. 9-02A, and are approved for presentation to the convention.

Regarding the Bylaws (noting a change proposed to bylaw 6.1 [a] (or 6.01 [a])), the commission notes the following points requiring attention:

- Bylaw 1.1 [a,b,c]: each instance of *pastor* should read *ordained minister* (likewise, in Bylaw 5.5 d 1). In [b] and [c], *Synod* should be replaced with *district*.
- Bylaw 5.1 [a]: The phrase "following regular election of the officers of the Synod" is unnecessary and may be removed.
- Bylaw 5.3 [a][6] and throughout: *(Circuit) Counselor* should be *(Circuit) Visitor*.
- Bylaw 5.5 d 1: At a minimum, the ballot is required to contain at least two candidates for each position to be elected.
- Bylaw 5.11 [a]: The phrase "in which an election is held" is unnecessary and may be removed. In [a] and [c], the term "pastor" generally refers to an ordained minister in active parish service. If "ordained minister" is intended, this term should be substituted.
- Bylaw 6.1 [a] (or 6.01 [a]): Prior approval by the Commission on Constitutional Matters is required (LCMS Bylaw 3.9.2.2.3 [b]) and should be noted here. The change incorporating the process for dealing with amendments to preapproved bylaw changes is acceptable.

The commission approves the bylaws for presentation to the convention, contingent on the above points being addressed in appropriate fashion. The commission thanks the South Dakota District for its cooperation in the bylaw review process and reminds it to file the adopted versions of its articles and bylaws with the commission following its convention.

88. Concordia Historical Institute Articles of Incorporation and Bylaws (17-2835)

On behalf of the Executive Director of Concordia Historical Institute, the Secretary of the Synod in a June 20, 2017, e-mail, forwarded the institute's proposed Articles of Incorporation and Bylaws for review by the commission. These were approved, as proposed, to be presented to the membership for adoption. The institute is reminded that approval by the Synod Board of Directors is also required (Bylaw 3.6.1.7), and is thanked for its careful attention and cooperation in the process of amending its governing documents.

89. Meeting with Council of Presidents

Due to a change in the Council of Presidents meeting schedule, the council's meeting no longer overlapped with the meeting of the commission, so that the scheduled joint meeting could take

place. Chairman Gude represented the commission in a visit with the council on Monday, September 18, dealing with the review and revision of district Articles of Incorporation for compliance with 2016 Res. 9-02A, with the process for handling floor changes to pre-approved changes to articles and bylaws at district conventions (Bylaw 3.9.2.2.3 [b]), and with a few other questions from the district presidents.

90. Future Meeting Schedule

The commission is already scheduled to meet November 10–11 in St. Louis. It determined to schedule its next meetings for February 2–3 and April 6–7.

With a long list of immediately necessary business concluded, the commission adjourned with prayer at 2:30pm Saturday.

John W. Sias, *Secretary*