

**MINUTES**  
**COMMISSION ON CONSTITUTIONAL MATTERS**  
**St. Louis, Missouri**  
**January 15–16, 2021**

**71. Call to Order and Opening Devotions**

Commission Chairman Dr. George Gude called the meeting to order with all members present and invited Rev. Owen to offer opening devotions, which he did, Friday and Saturday, on the basis of Ps. 139:1–18. Dr. Gude then introduced the agenda for the present meeting.

**72. Concordia University Wisconsin Bylaw Revision, Further Revised (20-2927B)**

The President of Concordia University Wisconsin, by an email memorandum of Aug. 28, 2020, and in response to the commission’s Op. 20-2927A, forwarded a new draft of his university’s proposed bylaw revision. He also proposed a clarification of the language included in Section 10.7 thereof as a “general fail-safe mechanism” to allow for the fact that a convention may later invalidate an opinion of the commission and to limit the board of regents’ corrective action in such a circumstance to “that specific area needing to be modified to achieve compliance,” noting that the university would prefer to leave the language in place.

The commission found the revised draft to have addressed the commission’s concerns as indicated in Op. 20-2927A, except for that involving Section 10.7. The commission has no authority to authorize deviation from the university’s bylaws, or basis for doing so, except as would be required to satisfy the requirements of Synod’s Constitution, Bylaws, or resolutions. It may be possible for the language to be intended to validate the action of a majority of the Board of Regents sufficient to have amended the bylaws where their action, while contrary to the Bylaws of the University as adopted at that time, was found to be necessitated by prevailing Synod directives as interpreted by the Commission on Constitutional Matters. The commission, while it feels the provision is obviated by Section 10.8, suggests the following change to render the language clear, if the provision is felt to be necessary:

**Section 10.7. Implied Amendments.** Any action taken or authorized by the Board of Regents which would be inconsistent with ~~the these~~ Bylaws then in effect but has ~~received prior approval~~ been indicated by the Commission on Constitutional Matters of the Synod to be required by the Constitution, Bylaws, or resolutions of the Synod and is taken or authorized by affirmative vote of not less than the number of Regents required to amend the Bylaws so that the Bylaws would be consistent with such action will be given the same effect as though the Bylaws had been temporarily amended or suspended so far, but only so far, as is necessary to permit the specific action so taken or authorized.

The commission also noted one additional detail: At Section 3.4, the regents elected by the Synod convention assume office on Sept. 1 following the convention.

With the above changes implemented as suggested, the bylaws as proposed are found to be consistent with the Constitution and Bylaws of the Synod and are approved for adoption by the board of regents. If the commission’s proposal regarding Section 10.7 is inadequate, in the university’s view, that would need to be revisited. The university, in particular, its board, counsel, and president are thanked for their submission of these documents for review.

**73. North Wisconsin District Bylaws, Revised Proposal (20-2941A)**

The Office of the North Wisconsin District President, by an email of Oct. 9, and in response to the commission’s Op. 20-2941, forwarded a new draft of the district’s proposed bylaw revision. The commission notes that its concerns have been addressed and approves the bylaw proposal to the convention under the following conditions:

- Bylaw 3.01 (d): The commission understands that the language both inserted and struck out is intended to be included, as it seems to be necessary, if the district's intention is to limit the president to a choice of candidates on the ballot for vice-president with membership in a region congregation, should such a candidate exist. If the district's intention is to give free choice to the district president to appoint any eligible ordained minister of the region, the word "candidate" should be replaced with "an eligible ordained minister." (Either solution is possible, but one should be undertaken.)
- Bylaw 4.03 (d): The commission believes this paragraph should read: "All non-voting ordained members of the Synod within the district and all commissioned members of the Synod within the district are advisory delegates; the members of the board of directors not representing their respective congregations as voting delegates; and the members of the district staff shall serve as advisory delegates representatives. Advisory delegates and representatives are entitled to voice and vote on a floor committee, if appointed, and to voice in the convention."
- Bylaw 6.04 (a): There is a typographical error in the language the commission proposed; "...considered by a convention floor committee; adopted by..." should read: "...considered by a convention floor committee, and adopted by..."

With the above minor corrections attended to (assuming they meet with the intentions of the district), the commission finds the bylaw proposal to be in harmony with the Constitution and Bylaws of the Synod and approves it for presentation to the convention, reminding the district of its request for a clean copy of the district bylaws when adopted by the convention. The district is thanked for submission of these documents for review.

The commission notes that the district filed restated articles with the State of Wisconsin on Oct. 19 and thanks the district for sending the commission a copy for its files.

#### **74. Indiana District Bylaws, Revised Proposal (20-2942A)**

By an email of Nov. 10, and in response to the commission's previous review in Op. 20-2942, the Indiana District Secretary forwarded a revised version of his district's bylaw proposal, along with some explanatory comments. The commission finds the present draft to have addressed all the commission's concerns and approves it for presentation to the district convention. The district and its secretary are thanked for diligent attention to these matters and for submitting the documents for review. The district is reminded to submit a clean copy of the district's bylaws when amendments have been adopted by the convention.

#### **75. Texas District Articles of Incorporation and Bylaws, Revised Proposal (20-2943A)**

By an email of Nov. 12, and in response to the commission's previous review in Op. 20-2943, the Texas District Secretary forwarded a revised version of his district's bylaw proposal, noting also, in regard to the district's articles of incorporation, that the district has requested authorization by the Synod Board of Directors to incorporate the language required by 2016 Res. 9-02A and Bylaw 1.5.3.6 into the district's bylaws instead. The Secretary of the Synod noted that this has been brought to the attention of the board, which is again in contact with the district on this matter. In any case, the commission notes that the present draft of the Texas District Bylaws does not incorporate the language required by Bylaw 1.5.3.6, perhaps because the district is awaiting the board's reply.

Apart from that outstanding item, the commission notes that its concerns with the previous draft have been addressed. (In Article I: "THE DISTRICT: Organization and Administration," the commission notes that the paragraph beginning with "The Bylaws of..." should be marked as an insertion.)

With regard to the proposed language of Bylaw 14.009, "extend calls or contracts to those members of our Synod who may be called or contracted to serve a specialized ministry endorsed by the district in these organizations," the commission notes that the ability of a district to "endorse a specialized ministry" (LCMS Bylaw 2.11.1 [i]) is intended to allow a minister to be installed as *active* in that position while being in the actual employ or under contract of an organization that is not an eligible calling entity (that is, while *not* being called by the district or any other eligible calling body). This is a somewhat different situation than

being called by the district and serving in concert with some other entity. The language as proposed combines these two models and may cause confusion.

Noting this issue and the matter of the Bylaw 1.5.3.6 language, which awaits inclusion either in the Articles or in the Bylaws with the approval of the Synod Board of Directors for its inclusion there, the commission awaits a final draft of this revision addressing these two points, which draft it can then approve for presentation to the district convention. The district and its secretary are thanked for their diligent efforts and for submitting these documents for review.

#### **76. Kansas District Bylaws, Revised Proposal (20-2945A)**

By an email of Nov. 4, and in response to the commission's previous review in Op. 20-2945, the President of the Kansas District forwarded a revised version of his district's bylaw proposal. The commission notes that its previous concerns have been addressed. It notes, however, the following additional items related to the implementation of recommended changes:

- Article III 2 a: While district *staff* are not permitted to be *advisory members* of the board, the District Treasurer, an *officer*, would be eligible to be an advisory member of the board (and by default *is* a member thereof, Const. Art. XII 11); the district may (although it is not required to) therefore wish to restore the Treasurer to advisory *membership* on the board.
- Article III 2 b, VI. Executive Committee / VII. Emergency meetings: "performed by the agency" should read "performed by the board" and "actions of the agency" should read "actions of the board." It may be clearer to remove the heading "Emergency meetings" from the second paragraph, as not all of the material of VII relates to emergency meetings, while all of it does relate to the executive committee.

With the above-noted changes made, the commission approves the proposal for presentation to the district convention as consistent with the Constitution and Bylaws of the Synod. The district is thanked for its work on these bylaws and for submitting the documents for review and is reminded to submit for the commission's files a clean copy of the bylaws once amended by the convention. The commission also notes and reiterates its request for submission of the district's operations manual, apparently a district policy manual, as well as the noted convention manual, for the commission's review under Bylaw 3.9.2.2.3.

#### **77. Southern District Articles of Incorporation and Bylaws, Revised Proposal (20-2949A)**

By an email of Dec. 7, the Office of the Southern District President, on behalf of the District Secretary and in response to the commission's previous review of Op. 20-2949, submitted a revised proposal for revision of the district's articles and bylaws. The commission notes the inclusion of changes consistent with its approval, in Op. 20-2949, of the articles as proposed. All issues identified with the previous bylaw draft have been addressed. The bylaw proposal is therefore now approved for presentation to the convention as in harmony with the Constitution and Bylaws of the Synod. The district is thanked for its diligent work on these documents and for submitting its documents for review; it is reminded to file its articles with the state when adopted and to submit a clean copy of the articles and bylaws as adopted by the convention to the commission for its files.

#### **78. Mid-South District Bylaws, Proposed (20-2958)**

By a memorandum of Nov. 6, the Mid-South District Secretary forwarded for the commission's review a number of district bylaw amendments, beyond those having to do strictly with changes necessitated by the 2019 Synod convention, those having been dealt with in Op. 20-2933. The proposal amends Mid-South Bylaws 4.2.2 and 8.4.1 and inserts Bylaws 8.3.5–8.3.6.1 to detail nomination and election processes for the Nominations Committee and for the Mid-South representative to the Synod Committee for Convention Nominations. With regard to these, the commission notes the following:

- In Bylaws 8.3.5.2 (a) and 8.3.5.3 (a), the commission suggests, but does not require, that the "roster of the Synod" be changed to "roster of the district," in analogy to Bylaw 4.3.1. (It is possible for an

ordained minister, for example, who is emeritus, candidate, or active but not as a parish pastor to hold membership in a Mid-South District congregation while himself being a member of another district of the Synod. The district may not wish to allow the service of a minister who is not a member of the district.)

- In the final paragraph of Bylaws 8.3.5.2, 8.3.5.3, and 8.3.5.4, it may be clearer to write “from each combined electoral region.”

The commission notes a new observation with regard to Bylaw 8.5.1, which is that this does not appear to account for the situation where the office of president is *permanently* vacated. In such a case, the first vice-president, in line of succession, would assume the office (and not merely the duties and responsibilities) as president. This case should be provided for so as not to suggest that the temporary incapacity provision applies to a permanent cessation of service before the end of the president’s term.

The commission finds the proposal to be consistent with the Constitution and Bylaws of the Synod and approves it for presentation to the district convention. The district and its secretary are thanked for sending these documents for review and reminded to submit a clean copy as adopted by the convention for the commission’s files.

## **79. Minnesota South District Articles of Incorporation and Bylaws, Proposed (20-2959)**

By an email of Oct. 29, the Minnesota South District Secretary forwarded proposed amendments to his district’s articles (Art. II 2 b) and bylaws for the commission’s review. With regard to the articles, existing language was found to be compliant with the spirit of 2016 Res. 9-02A and Bylaw 1.5.3.6. If revision is presently contemplated, however, relationship language may well be brought into full compliance with these current standards. This would suggest further revisions:

- Art. II 2 c: “It accedes to, recognizes, and accepts the doctrine taught and practiced in the Synod (Art. II.) and also ~~the those provisions in of the Articles of Incorporation, and Constitution and, the Bylaws, and the resolutions~~ of the Synod, as currently in effect and as may hereafter be amended from time to time; all provisions of these Articles and Bylaws are subject to said Synod provisions.”
- Art. II 3 b: Here, adoption of Bylaw 2.5.5 has provided specific language: “For purposes of these Articles of Incorporation, a ‘parish’ consists of ~~two or more congregations in the District who are affiliated with the LCMS and that are served by one called pastor who is serving said parish on a permanently called basis~~ the total number of congregations regularly cared for (served) by a pastor or pastors, as further defined in the Bylaws of the Synod.”
- Art III 2 a: “annual meeting” should, it seems, read “regular meeting”

Regarding the bylaws:

- The new MNS Bylaw 2.20.5, dealing with restriction of individual members, seems out of place and may best be omitted. Synod Bylaws provide at length for this feature in the context of ecclesiastical supervision and other related processes.
- MNS Bylaw 2.20.6: the definition of multi-congregation parish would more accurately read: “Multi-congregation parishes ~~(two or more congregations served by one called ordained minister on a permanent basis~~ comprising those congregations regularly cared for [served] by a pastor or pastors, as further defined in the Synod Bylaws)”
- MNS Bylaw 3.1.2.5: It seems the sense is that the costs are assessed to the “congregations of the circuit,” not the circuit as such.
- MNS Bylaw 4.2.13.1: The printing of overtures is not left to the “discretion of the praesidium.” The president of the district may disapprove publication of only those overtures that fall in the categories described in Bylaw 3.1.6.2 (c).
- MNS Bylaw 4.2.15.2 (a) should provide that “If elected, nominees shall be members of member congregations of the district (and, if elected to a regional office, of the respective region) upon...”

- To be consistent with LCMS Bylaw 3.12.4.1, MNS Bylaw 4.2.15.2 (g) should read as follows: “The three candidates receiving the highest number of nominating forms, as well as any floor nominees, for each position shall be listed alphabetically. All names shall be listed without any distinctive mark, except where regional representation is a requirement of these bylaws. ~~Nominations from the floor shall be listed on the ballot thereafter in the order nominated.~~” A similar change should be made in MNS Bylaw 4.2.15.4 (a).
- MNS Bylaw 4.2.15.6 (e): Bylaw 3.12.3.7 (c) does not apply to elections at the district level and can be omitted here, as floor nominations are dealt with in Bylaw 3.10.6.2 [8].
- MNS Bylaw 4.2.15.6 (i): While this is true of the LCMS Committee for Convention Nominations (LCMS Bylaw 3.12.3) the district’s intention here may be to specify the same for its own “committee on nominations.” If that is the case, clarification is called for.
- MNS Bylaw 4.5.5: There are two elements that might prove confusing here. The commission suggests: “The board of directors shall consist of the district officers (president, vice-presidents, secretary, and treasurer), one ordained minister with membership in a congregation of ~~from~~ each of the four regions, one lay person with membership in a congregation of ~~from~~ each of the eight conferences, and two commissioned ministers with membership in the district and in ~~of~~ congregations or parishes ~~in~~ of the district, elected at large.
- MNS Bylaw 4.5.7 (d): The limitations on the function of an executive committee identified in Bylaw 1.5.3.2 (a) should be reiterated here, as well as its ability to act in times of emergency between plenary meetings.
- MNS Bylaws 4.5.16–4.5.16.1: This passage is unclear. The first sentence deals with staff. The remainder reiterates the portion of Synod Bylaws 1.5.8–1.5.8.1 dealing with district officers other than the district president. The combination of this material with the first sentence raises the question of whether cause for terminating staff is intended to be the same cause required for removal of an officer. The material of Synod Bylaws 1.5.7–1.5.7.1, which would be applicable to members of the district board of directors, is nowhere mentioned; Synod Bylaw 1.5.7 provides a more extensive list of causes for these positions. The treatment of the various cases, consistent with the noted Synod bylaws, should be reviewed for clarity.
- MNS Bylaw 7.3: new language should read “...and shall be reviewed and approved in advance by the LCMS Commission on Constitutional Matters.”

The commission requests submission of a revised draft addressing the above, so that it may approve the proposal for presentation to the district convention. The district and its secretary are thanked for submitting the documents for review.

#### **80. Northwest District Bylaw Overture (20-2961)**

A congregation of the Northwest District forwarded an overture for the commission’s review, entitled, “To Memorialize the 2021 Convention of the Northwest District Lutheran Church—Missouri Synod to Amend District Bylaw 5.7,” and dated October 11, 2020. The commission notes the overture to be substantially similar, but not identical, to that of Northwest District Circuit 9, as approved by the commission in Op. 20-2954. The commission commends that opinion to the congregation for its review and reiterates its opinion as applicable also to this overture: “The proposed addition to the “secondary” bylaws of the district goes in some respects beyond the requirement of the existing and in-force “primary” bylaws of the district (namely, Synod Bylaw 1.5.4), in requiring general annual distribution of financial documents to all members of the district and in requiring delivery of a full budget (perhaps as opposed to a “summary budget”) to any member (congregational or individual) of the district. It is not, however, inconsistent with the Bylaws of the Synod for the district to elect to hold its board and administration to the proposed higher standard in these respects.” This overture’s proposed bylaw amendment is approved for presentation to the district convention.

## **81. Nebraska District Articles of Incorporation and Bylaws, Proposed (20-2962)**

By an email of Dec. 7, the Nebraska District President forwarded for the commission's review a draft revision of his district's articles of incorporation and bylaws, along with two overtures, one providing for the district board of directors to be empowered to realign visitation circuits and the other to effect a visitation circuit realignment. With regard to the district's articles of incorporation and the proposed amendment to Article XI and the insertion of Article XII, treating the district's relationship to the Synod, the commission finds these, as proposed, to be in harmony with the Constitution and Bylaws of the Synod, including the requirements of Bylaw 1.5.3.6 and 2016 Res. 9-02A. The district is thanked for undertaking this revision.

As to the draft bylaw revision, the commission notes the following:

- NEB Bylaw III A 1 (as renumbered): It will be clearer to use the term "regular convention" instead of "general convention" for the district convention (Const. Art XII 13) (also elsewhere, e.g., IV C 2 b). Further, the commission does not understand the last sentence to preclude the items indicated from occurring at a special convention, if called for those specific purposes. This could stand to be clarified.
- NEB Bylaw III C 2 a 1: Nominations for district president are not limited to the roster of the district but can be drawn from the clergy roster of the Synod (Bylaw 4.3.1).
- NEB Bylaw III C 2 c–d: The district is advised that it now has the option (but not the necessity) of using a nominating committee for these regional positions, if it might find such a process more effective or reliable than the numerical nomination process.
- NEB Bylaw III C 3 b 5: "reviewed" should read "reviewed and verified" (Bylaw 3.10.6.2 [8]). It is unclear, with regard to other positions, what the review of qualifications entails. This may be worthy of clarification.
- It appears that Section III, treating District Administration, should be renumbered IV, and Section IV, on Amendments, renumbered V. The numbering of the following items presumes that numbering.
- NEB Bylaw IV A 1 b's statement that "Should a regional [officeholder] join a congregation outside his/her governing area or region, but still within the District, he/she shall complete his/her term of office" is inconsistent with Bylaw 4.3.3 and must be reversed or removed. The only circumstance when a regional officeholder may continue service from outside the region is when put outside by a region boundary change occurring during his or her service.
- NEB Bylaw V C needs to end with an "and" connecting the process of A–C with the two concluding steps in D 1 and D 2, so that it is clearly understood that the steps of either D 1 or D 2 are contingent on prior accomplishment of the foregoing.

Regarding the overture treating the board of directors' alignment of visitation circuits, the language proposed suggests assignment of individual members to circuits, rather than simply congregations. This would go beyond what is specified in the Synod Bylaws. The commission suggests the following language in place of the proposed II G 1: "The Board of Directors shall be responsible for assignment of congregations to visitation circuits and, where necessary, for requesting exceptions to, or combining adjacent visitation circuits to satisfy, the requirements for electoral circuits as stated in the Bylaws of the Synod."

Provided the above are addressed as indicated, the commission finds the proposed articles and bylaws, as well as the two overtures, to be in harmony with the Constitution and Bylaws of the Synod and approves them, subject to the above, for presentation to the district convention. The district is reminded to file its articles as amended with the State of Nebraska and to forward to the commission, for its files, clean copies of governing documents as finally adopted by the convention. The district and its president are thanked for sending these documents for review.

## **82. 2019 Res. 7-03 Draft Proposal to Revise Governance of the Concordia University System (20-2963)**

The chairman of the 2019 Res. 7-03 Committee to Revise Governance of the Concordia University System forwarded a complete but preliminary draft of its proposal, due to be shared with the Synod in February for review in anticipation of the upcoming Synod convention. The commission reviewed the draft, which involves extensive bylaw changes, for consistency with the Constitution and Bylaws of the Synod and with the objectives of the noted resolution. While noting that much work remains to be done in crafting the important ecclesiastical accreditation standards and that the degree to which the proposal will, if adopted, be able to accomplish the aims delineated in 2019 Res. 7-03 will depend in large measure on the willing and able performance of those involved, both in the Commission for University Education and in the boards and administrations of affiliated colleges and universities—perhaps to an even greater degree than the present system—the commission found the proposal as a whole to be in harmony with the Constitution and Bylaws of the Synod and consistent with the aims of 2019 Res. 7-03.

The commission also noted a number of specific language suggestions, which it will convey to the committee through the Secretary, and looks forward, with the Commission on Handbook, to helping to further refine the proposal as it moves through the process toward the Synod convention.

## **83. District President Authority in a Congregational Controversy (20-2951)**

By an email of Sept. 16, a member of the Synod posed the following opinion request to the commission regarding the authority of a district president, under Constitution XII 7 and Bylaw 4.4.6, as the district president assists congregations having internal disputes. The commission solicited and received input from the Council of Presidents, consonant with Bylaw 3.9.2.2 (b), and initiated discussion of the item in its October meeting. It now responds as follows:

**Question 1:** When a district president intervenes in an intra-congregation dispute, as long as the dispute does not involve the doctrine or polity of the LCMS, is his input binding or merely advisory?

**Opinion:** The district president, like the President of the Synod, “has and always shall have the power to advise, admonish, and reprove. He shall conscientiously use all means at his command to promote and maintain unity of doctrine and practice” (Const. Art. XI B 3) “within the boundaries of his district” (Const. Art. XII 6). He shall “moreover, especially exercise supervision over the doctrine, life, and administration of office of the ordained and commissioned ministers of [his] district and acquaint [himself] with the religious conditions of the congregations of [his] district. To this end [he] shall visit and, according as [he] deem[s] it necessary, hold investigations in the congregations.” (Const. Art. XII 7) In this work, he is to “conserve and promote the unity of the true faith,” “strengthen congregations and their members in giving bold witness,” and provide “evangelical supervision, counsel, and care,” and “protection for congregations, pastors, teachers, and other church workers...” (Const. Art. III). To this end he shall “in his ministry of ecclesiastical supervision visit the congregations of his district” (Bylaw 4.4.4) and “[e]ven without formal request therefor, may through the proper channels arrange for an official visit or investigation when a controversy arises in a congregation...of the district or when there is evidence of a continuing unresolved problem in doctrine or practice” (Bylaw 4.4.6).

The question poses a false dichotomy in asking whether such input of the district president is “binding or merely advisory.” When Const. Art. VII 1 states that “[i]n 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,” this is not to dismiss the *advice, admonition, and reproof* of a district president as “*merely* advisory.” The duty of his office is to *advise authoritatively* on the basis of the Word of God and the Lutheran Confessions—to include, as noted above, the practical application of these to a pastor’s ministry and divine call and to any disputes that may arise in a congregation.

The congregation will do well to weigh such worthy advice, counsel, and reproof, and to act as the Word and conscience require—for the Word of God is surely binding. Synod is, as Const. Art. VII 1 states, “but an advisory body,” but when its officers advise, counsel, and reprove from the Word of God and Lutheran Confessions, this is not to be dismissed as “mere advice;” indeed, congregations participate in the Synod *principally* to receive and provide for one another such advice.

Const. Art. VII 1 does frankly acknowledge and assert the fact that the district president does not possess directive control under any “legislative or coercive [governmental] powers” held by the Synod over congregations; such powers are explicitly disclaimed. What action the congregation takes, therefore, on the basis of (or contrary to) the district president’s advice, counsel, and reproof is of its own volition—which, while it may be captivated by the Word of God or sensible persuasion through the offices of the district president or his representatives, its own volition remains. Even where a congregation or individual member of the Synod is violating one of the conditions of membership in the Synod, the district president cannot force the congregation or individual member to change or follow a particular course of action. Rather, in such a situation, when persuasion does not suffice, the district president will ultimately need to follow the procedure for expulsion from the Synod in Article XIII.

Question 2: Does a district president have the ecclesiastical authority to effect the forced retirement of a called/rostered pastor without the official involvement and consent of the body that called that worker (i.e., the voters’ assembly of the congregation)?

Opinion: The question seems to suggest that a district president might himself retire a pastor. This he cannot do. A district president may advise, admonish, or reprove a pastor or a pastor’s congregation where there is or appears to be potential cause for removal of a pastor from office. Where a compelling circumstance exists, a district president may indicate that a failure to act, either by the congregation or by the pastor, will result in restriction of the pastor or suspension and possible expulsion from membership in the Synod of either the pastor or the congregation. The district president “has and always shall have the power to advise, admonish, and reprove” (Const. Art. XI B 3, XII 6) and exercises the “ministry of ecclesiastical supervision” (Bylaws 4.4.3; 1.2.1 [j]). By doing so he does not himself retire the pastor. The call of a pastor can be resigned by the pastor himself or rescinded by the congregation itself (either properly and advisedly, in accord with our doctrines of Church and Ministry and of the divine call, or improperly and unadvisedly, which would be wrong, would put its continued membership in the Synod in jeopardy, and may result in a dispute resolution process which could find the congregation liable). While the district president may within his office and presuming a compelling circumstance attempt to persuade a pastor to resign or a congregation to rescind a call, he has no means himself to retire the pastor.

Question 3: When a district president intervenes in an intra-congregation dispute, may the district president force his individual will on a congregation or called pastor by his own interpretation and application of the governing documents of the congregation?

Opinion: See the above. The district president may advise, admonish, and reprove, based on the Word of God and his understanding of the congregation’s commitments established in its own documents. The congregation then makes its own decision, which—if contrary to the doctrine and practice of the Synod or to its own commitments—may result in the further exercise of ecclesiastical supervision, in the need for dispute resolution, or the congregation’s membership in the Synod being placed in jeopardy.

Question 4: When a district president intervenes in an intra-congregation dispute, what remedy does the congregation have if its voters’ assembly disagrees with the district president?

Opinion: The question, while unclear in itself, relates to how the advice given from the office of the district president is received and acted upon by the congregation. By virtue of the congregation’s membership in the Synod, the congregation has the duty and responsibility to give due consideration to such advice. Should the advice of the district president be inconsistent with the Scriptures and Confessions, that is, with the doctrine and practice of the Synod, or inapplicable to the congregation’s situation, the



congregation may, having given such advice due consideration, consider its situation in light of the Scriptures and Confessions and do otherwise than advised, realizing that if it acts contrary to the conditions of membership in the Synod (Const. Arts. II and VI) it places its membership in jeopardy. Keeping in mind that one of the congregation's primary purposes in maintaining membership in the Synod is that it may see to the provision of proper ecclesial advice, and that therefore such, when provided, should not be lightly dismissed, this seems the most immediate remedy to advice that—upon due and proper consideration—would be found to be incorrect.

Should a dispute arise between a congregation and its district president, the proper response would be to initiate the dispute resolution process as outlined in Bylaw section 1.10, the use of which is mandated by Synod Bylaws as the process to be used in the case of disputes between members of the Synod.

The district presidents do carry out their offices both under the ecclesiastical supervision of the President of the Synod and as elected by their districts and responsible to their member congregations in convention.

#### **84. 2019 Res. 9-17 Study of Voting Privilege in the LCMS**

Dr. Gude and the Secretary shared with the commission the progress made by the 2019 Res. 9-17 study group toward its report to the convention, originally scheduled for release this month. The group's intention is to keep as closely as possible to the schedule. The commission, as primarily responsible for the report, agreed in principle with the direction of the work so far and looks forward to reviewing the final version of the report before its publication.

#### **85. Agenda**

Dr. Gude noted four items held long-term on the agenda, which are now being removed for the following reasons, under the proviso that the commission will gladly take them up again if requested by the submitters:

- Michigan District request for reconsideration of Op. 16-2784A: the district board of directors has not, for some years, responded with interest in pursuing this item further.
- Eastern District Governance Policy Manual (Ag. 17-2807), North Dakota District Policy Manual (Ag. 17-2843): The Secretary has, subsequent to the commission's initial response, had ongoing correspondence and consultation with these districts regarding aspects of the design of these manuals in light of a number of review of similar "policy-based governance" manuals. The commission looks forward to reviewing these manuals as they continue to be developed by the respective boards, but has no revised edition to consider at present.
- Mid-South District Accountable Manager Governance Document (Ag. 14-2736): This item was superseded by the recent review of an extensively revised version of the manual under Op. 20-2952.

#### **86. Adjournment and Upcoming Meetings**

Having concluded its agenda, the commission adjourned with closing prayer. The commission remains tentatively scheduled to meet in person April 9–10, 2021, in St. Louis.

John W. Sias, *Secretary*