

# LCMS

## Commission on Constitutional Matters Minutes – 2009

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## MINUTES

### COMMISSION ON CONSTITUTIONAL MATTERS St. Louis Crowne Plaza Hotel February 7–8, 2009

#### **71. Call to Order, Opening Devotion, and Agenda**

Chairman Albert Marcis called the meeting to order with all members present. Dan Lorenz provided an opening devotion based upon Psalm 146. Several items were added to the agenda for the meeting.

#### **72. Review of Bylaw Section 2.14 *Standard Operating Procedures Manual***

The commission reviewed the *Standard Operating Procedures Manual* for Bylaw section 2.14, taking into consideration the input provided by the Council of Presidents through its committee appointed for this purpose. After a detailed review of the manual, a motion was introduced and carried “to accept the manual as revised, subject to the concurrence of the Council of Presidents.”

#### **73. Review of Proposed Changes to Concordia University System Articles of Incorporation and Bylaws re Membership Structure (06-2472)**

2007 Resolution 5-07A revised the membership structure of Concordia University System (CUS) to provide that the LCMS and the colleges and universities of the LCMS are the members of CUS. Accordingly, and as required by Bylaws 3.6.1.6 (a) and 3.9.2.2.4, the CUS submitted proposed amendments to its Articles of Incorporation and Bylaws to the commission for its review and approval. The CUS also provided amended versions of its policy manuals in response to an earlier review by the commission.

After review, the commission gave its approval to the proposed amendments to the Articles of Incorporation and Bylaws of Concordia University System. The commission’s review of the CUS policy documents will continue.

#### **74. Policy Manual Review**

The commission continues to review the policy manuals of the agencies of the Synod to ensure that they are in accord with the Constitution, Bylaws, and resolutions of the Synod. The commission’s response to the agencies whose manuals were reviewed will include its “Frequently Noted Aberrations” document to encourage and facilitate uniformity of usage in bylaw and policy documents in our Synod.

##### **(A) Board of Directors Policy Manual (08-2521)**

Upon review of the Board of Directors Policy Manual, the commission calls attention to the following:

1. Page ii: First paragraph under “Glossary” contains information that should be updated to reflect the 2007 *Handbook* of the Synod.
2. Page ii: The definition of “Corporate Synod” does not quote the 2007 *Handbook* accurately.
3. Page 2-3, Policy 2.1: This paragraph should be rewritten since it contains inaccurate 2007 *Handbook* information, uses wording (e.g., “enables”) that does not accurately reflect Bylaw 3.3.5, and should reference all bylaws that pertain.

4. Page 2-3, Policy 2.2.5: Limitations of the activity of a board member should be evaluated in light of the Synod's stated interest in transparency.
5. Page 2-5, Policy 2.4.6: This section should be reviewed in light of parliamentary law. Regular minutes should include mention of the general topic to be discussed in executive session.
6. Page 2-6, Policy 2.4.8: This section is not accurate in light of amendments made to Bylaw 3.3.5.5 by the 2007 convention.
7. Page 2-6, Policy 2.4.9: Final sentence of paragraph is unclear. The inclusion of "of" after the word "review" may be a solution.
8. Page 2-6, Policy 2.5: This paragraph should be reconsidered in light of pertinent *Handbook* references such as Const. Art. XI F, Bylaws 1.4.4 and 3.3.5, etc. That which is given as the board's "main responsibility" is in reality only the context for the board's primary responsibilities.
9. Page 2-6, Policy 2.5.1.2: Incomplete sentence.
10. Page 2-7, Policy 2.5.2ff.: This paragraph is unclear and vague. To meet with all RSOs is inconceivable. The relationship of these "partners" is primarily between the President of the Synod and appropriate program boards (Bylaw section 6.1).
11. Page 2-7, Policy 2.6.3.2: An example of formatting issues where the numbering system is not consistent. Policy 2.6.3.2 should really be 2.6.3.1.1, etc. See also 3.2.6.3 and the lettering under the introductory paragraph on page 5-1. See also 5.8.2.2, 5.8.3.1, 5.8.3.3ff.
12. Page 2-9, Policy 2.7.2: For clarity, reference might be made to Bylaw section 3.5 and its provisions for the Administrative Team.
13. Page 3-4, Policy 3.1: Bylaw reference 3.3.5.2 might well be expanded to include subsequent bylaws outlining the board's authority.
14. Page 3-5, Policy 3.2.2.2: The bylaw reference should be Bylaw 1.5.4.
15. Page 3-7, Policy 3.2.9.5: A reference to Bylaw 3.6.1.1 would be helpful.
16. Page number 3-1 should be 4-1.
17. Page 4-2: The Constitution reference should be Article XI E.
18. Page 4-9, Policy 4.10 needs to be revised to reflect new bylaw provisions. Bylaw references would be helpful.
19. Page 4-9, Policy 4.10.3.1: This policy requires the Chief Administrative Officer to serve as liaison on behalf of the President of the Synod, an authority the board does not enjoy.
20. Page 5-1: The paragraph omits mention of Const. Article XI F circumstances in which the board may delegate a responsibility to an agency of the Synod, as well as other key bylaw references such as Bylaws 1.4.4, 3.3.5.3, and 3.3.5.6. Bylaw references in the list below the paragraph are inaccurate.
21. Page 5-4, Policy 5.2.1.2: Bylaw reference should be Bylaw 1.5.4.
22. Page 5-4, Policy 5.2.2.1: Reference to Bylaw 3.8.3.6.4 (a) (2) should be added.
23. Page 5-6, Policy 5.2.6.1: If exceptions are becoming the rule, this paragraph should reflect the change.
24. Page 5-8, Policy 5.3.1.1: This paragraph is not true of all agencies. It might better read "as requested by the Board of Directors."
25. Page 5-9, Policy 5.3.1.4: Again, the policy is too global, since not all agencies require audits.

26. Page 5-18, Policy 5.4.1: This paragraph fails to reflect accurately Article XI F 2, omitting mention of delegation to an agency by the Synod itself. Mention should also be made of Bylaw 1.4.4. The Bylaw reference given should be Bylaw 1.2.1 (p).
27. Page 5-19, Policy 5.4.1.2: The reference to Bylaw 3.3.5.7 appears not to be helpful. The reference to the boards of regents should also include reference to Bylaw 3.8.3.6.4 (i).
28. Page 5-25, Policy 5.6.1.1: The bylaw reference should be Bylaw 1.5.2.
29. Page 5-25, Policy 5.6.2.1: The second word of the paragraph would better read ‘incorporated.’
30. Page 5-26, Policy 5.6.3.6: Bylaw reference and quotation are inaccurate according to 2007 *Handbook*.
31. Page 5-27, Policy 5.6.5.2: The quote is inaccurate and should now be Bylaw 1.5.5.
32. Page 5-28, Policy 5.6.6.1: The bylaw reference should be corrected and the title of the section reconsidered since it speaks of “corporate agencies.”
33. Page 5-29, Policy 5.6.6.1.4: Bylaw reference should also include Bylaws 3.3.1.2 and 1.5.5 (a) (1).
34. Page 5-31, Policy 5.6.6.5: Not all agencies, especially commissions, have chief executives.
35. Page 5-35: Bylaw reference 3.8.3.2 in the third column should read 3.6.6.2; and 3.7.1.2 should read 3.7.1.3. In the latter case, the content of the fourth column requires updating.
36. Page 5-36, Policies under 5.7.3.1.1: The commission suggests review of these policies. The Constitution and Bylaws allow delegation of certain property rights to entities other than the Board of Directors itself. In theory, the list of potential donors assembled by those entities may be subject to the control of the agency to which delegation is made, rather than the Board of Directors. For example, this may be true with respect to donor lists created by colleges, universities and seminaries, the Board for Communication Services, and KFUEO radio. This same concern applies to Policy 5.7.3.2.3.
37. Page 5-38, Policy 5.7.4.1: The bylaw is not quoted accurately.
38. Page 5-38, Policy 5.7.4.3: The Board for Communication Services is to make itself available to the President, rather than vice versa (see Bylaw 3.8.5.2 [a]).

(B) Review of the following Bylaws/policy manuals will remain on the agenda of the commission:

- Board for Pastoral Education (06-2471)
- Board for University Education (06-2472)
- Commission on Doctrinal Review (08-2517)
- LCMS Foundation (08-2522)
- Concordia Historical Institute (08-2523)
- Commission on Theology and Church Relations (08-2525)
- Concordia Plan Services (08-2526)
- Lutheran Church Extension Fund (08-2530)

(C) The secretary of the commission was asked, for the sake of review, to obtain and distribute to the members of the commission the current Articles of Incorporation and Bylaws of the LCMS Foundation, Concordia Publishing House, and Concordia University System.

(D) The secretary of the commission was asked to create a Policy Review Master List and calendar to provide a record and good order to the commission’s review of agency policy documents.

## **75. Review of District Bylaws and Proposed Bylaw Amendments**

### **(A) Oklahoma District Bylaws (08-2536)**

The commission reviewed the draft copy of *The Handbook of the Oklahoma District* upon request of the district president prior to its submission to the district convention for approval. In the interest of encouraging and facilitating uniformity of usage in bylaw and policy documents of the Synod, a copy of the commission's "Frequently Noted Aberrations" document will be provided to the district along with the following suggestions and recommendations for change prior to convention action. The commission also understands that this handbook is a work in progress and will be submitted for further review by the commission upon its completion at a later date.

1. Page 3, Preamble paragraph: Mention in line 6 of "members of district and Synod" is inaccurate and fails to clearly reflect that membership is held in the Synod and not in its districts.
2. Page 4, paragraph 3: This statement should be changed to indicate that membership is in the Synod and that such membership is governed by the Constitution as well as the Bylaws of the Synod.
3. Page 5, paragraph 1 a: Mention of a "voting" congregation in the first sentence is redundant since member congregations are being discussed, but the sentence should make clear that this is to be a congregation "within the district."
4. Page 7, paragraph d: The final sentence should make clear that the treasurer is to be a "lay" member of a congregation of the district.
5. Page 9, paragraph f: Reconcilers are not appointed after every district convention since they serve six-year terms.
6. Page 11, first paragraph: To use the terms "non-clergy" and "commissioned" is a redundancy.
7. Page 11, final two paragraphs: The content of the paragraphs should reflect CCM Opinion 00-2197 which provided for conference calls to conduct legal business "provided that there is full agreement on the part of the entire board to this manner of doing business, provided that appropriate care is taken to respect and protect the rights of all parties, to include opportunity for full and complete discussion, and provided that such practice does not contradict state law."
8. Page 13, paragraph b: This and other paragraphs assume that the time of the district convention will remain constant. It may be helpful to use time frames that do not hinge on a particular calendar day.
9. Page 14, paragraph 1: No mention or provision is made in the district's Bylaws for the election of the LCEF Vice-President or the district's elected member of the Synod's Committee for Convention Nominations every other convention (Synod Bylaws 3.12.3–3.12.3.3).
10. Page 14, paragraph 2: No mention is made of the time frame for the nominations of the officers mentioned, or that circuit counselor elections are governed by Synod Bylaw 5.2.2.
11. Page 14, paragraph 3: Since vice-presidents are district officers, their elections by smaller caucuses should not only be ranked but also ratified by the district convention, as is also the case with circuit counselors (Synod Bylaw 5.2.2 [f]).
12. Page 15, paragraph b: It is not possible to have "contract commissioned ministers" since a would-be contract of a commissioned minister is regarded by the Synod as a call.
13. Page 15, paragraph c: Multiple parish congregations must also determine their pastoral delegate in cases in which there is more than one pastor serving the parish in called positions.

14. Page 15, paragraph d: Circuit forums and convention-established committees should also be listed as eligible to submit matters for consideration by the district convention (Synod Bylaw 3.1.6.2).
15. Page 16, paragraph 2: Consistent use of the terms “ordained minister” and “commissioned minister” would be helpful. Also, under point “f,” there is no category called “consecrated ministers.”
16. Page 17: Beginning with this page and with a few exceptions (e.g. “Procedures for Election” on p. 19), the remainder of the material in the proposed handbook would lend itself to being a “policy” section apart from the “bylaw” section up to page 16.
17. Page 20, fifth bullet: It would be more clear if this statement was not a bullet but set off as the beginning of a new section, this to parallel the earlier section under the statement: “District Business Manager duties would include:”
18. Page 21, section entitled “Mission Secretary”: Unless the full title “Mission Secretary” is used consistently (also “Education Secretary” on p. 22), using “secretary” alone will be misleading (as on p. 22), as the name is already used for the secretary of the district.
19. Page 21, second paragraph under “Mission Secretary”: Adding “in the district” to the end of the first sentence will be a helpful clarification.
20. Page 27, “Rationale” paragraph: “Commissioned ministers” in place of “teachers” would be more accurate in keeping with Synod Bylaw 4.8.2 and would necessarily include DCEs and other such workers. “Contract teachers,” *i.e.*, non-rostered teachers, could also be invited, as stated.

(B) Minnesota South District Bylaw Amendment (08-2538)

With a letter dated December 7, 2008, the president of the Minnesota South District submitted changes to the district’s Bylaws as proposed by the district’s board of directors. After reviewing the proposals, the commission offers the following suggestions:

1. Proposed change to Bylaw 4.2.15.2 b): The proposed wording lacks sufficient deadline detail to assure carrying out other steps of proposed nominations process.
2. Proposed change to Bylaw 4.2.15.2 c): The use of a calendar date suggests that the dates of the district convention will not be moved to a date early in the year.
3. Proposed change to Bylaw 4.2.15.4 a): Again, the proposed wording lacks sufficient deadline detail to assure carrying out the other steps of the proposed nominations process.
4. Proposed change to second paragraph under “Membership and Constitution Committee”: The proposed sentence appears to have a word missing before the word “shall.”

(C) Southern District Bylaws (08-2540)

With a letter dated December 10, 2008, the secretary of the Southern District provided a copy of a revised version of the district’s Articles of Incorporation and Bylaws incorporating prior suggestions and recommendations from the commission, requesting that the commission again review the documents prior to their presentation to the district convention later this year. After reviewing the documents, the commission offered its conditional approval to the changes made, such approval on the condition that the following additional changes be made:

- Article of Incorporation V: The final sentence must be changed to read: “Parishes in which two or more congregations are served by one ordained minister shall be represented by one (1) lay vote and one (1) ordained minister vote.”

- Bylaws Article II H: The phrase “Official conferences of pastors and teachers” should be changed to “Official conferences of ordained and commissioned ministers” for the sake of clarity and uniformity. Paragraph a immediately following should begin with “An” rather than “A.”
- Bylaws Article III A: The second sentence of paragraph 1 would better read: “He shall be a full-time officer and will be required to hold membership in a voting congregation of the district.” This would allow time and opportunity for an ordained minister from outside the district elected district president to move congregational membership to a congregation of the district.
- Bylaws Article III A: Synod Bylaw 4.3.1 allows for district vice-presidents to be elected from the clergy roster of the entire Synod and should be reflected in paragraph 2 under Article III A. It would better read: “they shall be elected by the four (4) geographical areas....”
- Bylaws Article V B: In the second sentence of paragraph 2, “that” should be changed to “than.” In paragraph 5, the first sentence does not reflect the need for the convention to ratify the results of elections of vice-presidents (since they have not been elected by the entire district) just as the convention must ratify the results of the elections of circuit counselors (Synod Bylaw 5.2.2 [e] and [f]). The sentence might better read: “At the district convention, the four (4) geographical area vice-presidents and four (4) geographical area lay members of the Board of Directors elected by their geographical areas will be subject to ratification.”
- Bylaws Article V D (Note: Former section C should be relettered D): Under paragraph 3, subparagraph c, the second-last sentence cannot stand, since commissioned ministers are not voting members and their conference, therefore, cannot elect a member of the board of directors. Consideration could be given to their selecting a commissioned minister for appointment to the board by the board of directors, or to their participation in the process of nominating a slate of commissioned ministers, one to be elected by the convention.
- Bylaws Article VI: This paragraph should stay largely the way it was, restoring the parenthetical statement in the second sentence. The final sentence would better read: “Multiple parishes served by one ordained minister shall be represented by one ordained minister and one lay delegate. Likewise, the deleted sentence of Section B should be restored to reflect the Constitution and practice of the Synod.

Again, the commission’s approval of the documents in question is contingent upon incorporation of the changes detailed above.

(D) Northern Illinois District (08-2541)

With an e-mailed letter dated December 22, 2008, the secretary of the Northern Illinois District forwarded four overtures to the district’s convention, requesting review by the commission. The commission noted that the first two of the four overtures do not propose district bylaw changes and are intended for the national Synod convention, therefore not requiring review by the commission at this time. Upon review of the two remaining overtures, the commission offers the following comments:

- Under Bylaws Article III, the section regarding the “Polity Commission” that will become “E,” the commission suggests reconsideration of the name of the commission to match that used by the Synod in its Bylaw 2.2.1 (b), “Constitution Committee,” for the sake of clarity and good order.
- In the final proposed overture, under sections G and H: The first sentence under G speaks of “all those elected” and proposes their assuming office as of the first day of the third month subsequent to the convention. At the same time, the first sentence under H proposes that the district president, one of all those elected, assume his office on the first day of the second month. An exception for the president should be made in the sentence under section G. Also, the date “August 1” in the

sentence under H should be shown to be deleted, which is not the case in the copy of the overture received by the commission.

The commission, upon review of the entire Bylaws document submitted with the proposed overtures, calls attention to the following:

- Under Article I A: Paragraph 2 should include reference to the need for submission of all bylaw changes to the Synod's Commission on Constitutional Matters for review prior to consideration by the district's convention.
- Under Article V B: The Synod bylaw reference under Paragraph 4 should read: "(*Handbook*, Bylaw sections 4.7 and 3.12)."
- Under Article V H: Here again, the date "August 1" in the first sentence in paragraph 1 should be shown to be deleted.

(E) Southern Illinois District (08-2543)

With an e-mailed letter dated January 25, 2009, the president of the Southern Illinois District submitted a copy of an overture to be presented to the district convention advocating a single bylaw change to eliminate all references to a particular commission of the district. After review, the commission approved the proposed change.

**76. LCMS Foundation Amendments to Articles of Incorporation and Bylaws (08-2539)**

In a December 9, 2008 letter the LCMS Foundation submitted amendments to its Articles of Incorporation and Bylaws adding a new section providing for the indemnification of officers and trustees, re-numbering certain internal cross-references, and permitting two (instead of one) elected trustees to be from the same district of the Synod. After brief discussion, the changes to the documents were approved as presented.

**77. "Binding Force" Convention Resolutions (08-2542)**

A pastor of the Synod in a December 30, 2008 letter requested an opinion regarding the "binding force" of resolutions of the Synod in light of the commission's use of that terminology in its Opinion 08-2524. The commission asked the secretary to send letters to the Council of Presidents and the President of the Synod to allow them opportunity to submit in writing information regarding the matter at issue (Bylaw 3.9.2.2 [b]).

**78. Constitution Article VI Terminology (09-2544)**

In a December 1, 2008 letter addressed to the Commission on Constitutional Matters (CCM) and the Commission on Theology and Church Relations (CTCR), a district president requested definitions of key terms in Article VI of the Synod's Constitution, such as "unionism," "separatism," "heterodox," "mixed confession," etc. The CCM discussed the request in light of prior opinions by the commission touching on the subject of this request. It was agreed that the CCM would suggest that the CTCR take the lead in addressing the theological questions at issue, after which the CCM would respond to any remaining constitutional or bylaw questions. The secretary of the commission was asked to communicate with the CTCR in this regard, sharing a copy of the prior opinions of the CCM on this subject.

**79. Voting Rights of Congregations (09-2545)**

In a January 18, 2009 e-mailed letter, a parish pastor requested an opinion with respect to the representation of a four-congregation partnership (a multiple parish) at a district convention.

Question: Four congregations have formed a partnership. They each have called the two pastors who serve this partnership. Can each of the four congregations send a lay delegate to our district convention which is in June? Also, what is the status of the two pastors in regards to being the pastoral delegate or delegates to the district convention?

Opinion: The four-congregation partnership is entitled to two votes, that of a pastor who serves the four-congregation partnership and a lay delegate, both chosen by the four-congregation partnership.

Article V of the Synod's Constitution states: "At the meetings of the districts of the Synod every congregation or parish is entitled to two votes, one of which is to be cast by the pastor and the other by the lay delegate."

In its Opinion 03-2327 (January 20-21, 2003) the Commission on Constitutional Matters opined with respect to Article V the opinion, "Voting Rights of Congregations," included the definition of the term "parish" and addressed a multiple-congregation arrangement:

In the May 3-4, 1985 ruling (Ag. 1748), the commission ratified an opinion that had been offered by the Secretary of the Synod regarding the voting rights of congregations at district conventions when several congregations form a dual or multiple parish, namely, "that a multiple parish has only two votes, that of the pastor who serves the parish and a lay delegate chosen by the parish."

This opinion took into consideration earlier versions of the *Handbook* that had provided a definition of the term "parish," e.g., "If a pastor serves two or more congregations, these shall be regarded as one parish and shall be entitled to only one lay vote" (1963 *Handbook*, Bylaw 3.09). The term [parish] therefore refers to a dual or multiple congregation arrangement served by the same pastor and is not synonymous with "congregation." As such, two or more congregations served by one pastor share the right of representation by one lay delegate and one pastoral delegate to a district convention."

The four-congregation partnership constitutes one "parish" as defined above.

Other opinions of the commission are also helpful to understand the representation provision of the Synod. In an October 1-2, 1970 opinion (item 226 in the minutes), the commission stated that the matter of "two or more congregations served by one pastor shall be regarded as one parish entitled to only one set of delegates" is not contrary to the Constitution (see also Opinions Ag. 1275A, B [June 9, 1978]; Ag. 1734 [Feb. 1, 1985]; Ag. 1809 [March 27, 1987]; Ag. 2104 [May 22, 1998]). And in a review of a district's proposed bylaw changes (02-2321 [Jan. 20-21, 2003]), the commission noted that a proposed change

does not appear to clarify voting status as intended. In the case of a dual parish served by two called pastors, the proposed bylaw would seem to allow each congregation to have both a lay delegate and a pastoral delegate. Please note Article V of the Synod's Constitution: "At the meetings of the districts of the Synod every congregation or parish is entitled to two votes, one of which is to be cast by the pastor and the other by the lay delegate." (See also Opinion 03-2327.)

## **80. Eligibility to Receive a Call While on Non-Candidate Status (09-2546)**

In a letter received January 26, 2009, a district president asked follow-up questions to the commission's Opinion 08-2537 which clarified that candidate status cannot be extended beyond four years (Bylaw 2.11.2.2 [a]).

Question 1: Is it the opinion of the CCM that placement on non-candidate status in all cases means that the worker is not eligible to receive a call?

Opinion: No. A church worker on non-candidate status is eligible to receive a call. A church worker on non-candidate status is "eligible to perform the duties of any of the offices of ministry specified in Bylaw section 2.11" (Bylaw 2.11.2.3). In every case, the rostered church worker on non-candidate status remains a member of the Synod and, like all rostered church workers, is eligible to receive a call or appointment to any of the offices of ministry identified in Bylaw 2.11.1. The guidelines established by the Council of Presidents of the Synod for non-candidate members of the Synod (Bylaw 2.11.2.3 [c]) should reflect this eligibility.

Question 2: What specific remedy does the commission find in the Bylaws for a situation in which a worker has exhausted four years of candidate status, does not wish to voluntarily choose non-candidate status or to resign from the roster, and wishes to be eligible to receive a regular call to active service and has not received such a call?

Opinion: If a rostered church worker has exhausted four years of candidate status, does not wish to resign from the roster of the Synod, and is not eligible for emeritus status (Bylaw 2.11.2.1), he or she must request to be placed on non-candidate status in order to remain eligible to receive a regular call to active service (Bylaw 2.11.2 [b]). The Bylaws of the Synod do not limit eligibility to receive a call to a particular roster status. Congregations (as well as other calling and appointing entities) may call and be served by any minister of religion, ordained and commissioned, who has been admitted to his or her respective ministry in accord with the rules and regulations set forth in the Synod's Bylaws and remains a rostered member of the Synod (Bylaws 2.5.2 and 2.5.3).

## **81. Doctrinal Review of Commission on Worship Materials (09-2547)**

In an e-mailed letter dated January 31, 2009, a pastor of the Synod requested an opinion regarding the doctrinal review of a list of contemporary Christian songs produced and made public by the Commission on Worship. After brief discussion of the request in light of Bylaws 1.9.1.1 and 3.9.3.2.2, the commission agreed to respond to the pastor that it would give his request attention after allowing the Commission on Worship to submit in writing information regarding the matter at issue (Bylaw 3.9.2.2 [b]).

## **82. Letter to Blue Ribbon Task Force on Synod Structure and Governance**

Upon suggestion of the Commission on Structure, the Commission on Constitutional Matters discussed the prospect of the two commissions' involvement in the convention business that will be proposed by the Blue Ribbon Task Force on Synod Structure and Governance. The commission agreed that a joint letter should be sent to the chairman of the task force offering the two commissions' assistance. The following letter, if it met with the concurrence of the chairman of the Commission on Structure, would be directed to the chairman of the task force:

We, the chairmen of the Commission on Constitutional Matters and the Commission on Structure, continue to observe the progress your task force is making as it works toward its

report to the 2010 convention of our Synod. We and the members of our commissions wish you well in this significant endeavor.

We assume that our commissions will have a role to play as your task force prepares its proposals for convention consideration, proposals that we also assume will include substantial changes to the Constitution and Bylaws of our Synod. We therefore wish to offer our assistance to the task force in the areas of our responsibilities as defined by Bylaws 3.9.2ff (especially 3.9.2.2.1) and 3.9.5ff (especially 3.9.5.2).

Please inform us of your plans for preparation of convention proposals and your progress in readying those materials, so that we may be prepared to be of greatest assistance. We assure you of our full cooperation in helping to ensure the success of your endeavors. Thank you for your cooperation.

### **83. North Dakota District Convention Action (09-2449)**

The commission discussed e-mail communications from the President of the Synod regarding actions proposed to the North Dakota District convention that may have included amendments to the district's Bylaws. Because the commission did not have opportunity to review any bylaw changes that may have been proposed, the secretary of the commission was asked to obtain any such convention actions for the commission's review at its next meeting.

### **84. Adjournment**

Available time for the meeting having been expended, the meeting was adjourned with prayer. The commission will next meet April 3–4, 2009, in St. Louis.

Raymond L. Hartwig, Secretary

## MINUTES

### COMMISSION ON CONSTITUTIONAL MATTERS Crowne Plaza Airport Hotel, St. Louis April 3-4, 2009

#### **85. Call to Order, Opening Prayer**

Chairman Albert Marcis called the meeting to order and called on Raymond Hartwig for the opening devotion (Hebrews 13:14-15).

#### **86. Revision of Standard Operating Procedures Manual for Bylaw Section 2.17**

The first half-day of the meeting was spent reviewing a draft of the *Standard Operating Procedures Manual* for Bylaw section 2.17. The secretary noted that he would be meeting with a committee of the Council of Presidents to review the revised manual, thereby fulfilling the Bylaw 2.17.9.3 requirement that the council concur with any changes to the manual. [Note: the Council of Presidents granted its concurrence during its April 18-21, 2009 meeting in Fort Wayne, Indiana.]

#### **87. District Proposed Bylaw Changes Review**

The commission instructed its secretary, when reporting the results of the commission's review of proposed bylaw changes, to remind district presidents of the bylaw requirement that all district bylaw changes must be reviewed by the commission (Bylaws 4.1.1.2 [b] and 3.9.2.2.4) and to emphasize that late proposals for bylaw changes must be adopted pending review and approval by the commission. A letter to district presidents in this regard, with a copy to the President of the Synod, will emphasize that the commission continues to take seriously this bylaw review requirement for the sake of good order in the Synod.

Proposed amendments to the following districts' bylaws were reviewed by the commission and changes were recommended as follows:

##### **(A) Oklahoma District Bylaws (08-2536)**

The secretary reported that the commission's recommended changes were reported to the Oklahoma District following its February 2009 meeting, with the understanding that the district's handbook is a work in progress and will be submitted for further review upon its completion. The commission reiterated its interest in further review of the district's Bylaws when the additional changes are in place and will keep this bylaw review on its agenda until such time.

##### **(B) North Wisconsin District Bylaws (09-2548)**

The president of the North Wisconsin District presented his district's Bylaws and contemplated changes for review by the commission. In addition to encouraging the district to give attention to the commission's "Frequently Noted Aberrations" document in the interest of uniformity of vocabulary and grammar usage throughout the Synod, the commission offered the following recommendations for change to the Bylaws of the North Wisconsin District:

- Bylaw 1.03, p. 9: This paragraph requires change to reflect that membership is held in the Synod and not districts. This should be reflected in paragraphs a, b, c, and d.

- Bylaw 1.03, paragraph a, p. 9: The paragraph provides a list of those eligible for membership in the Synod as though it is intended to be an exclusive list. Article V of the Synod’s Constitution includes many more categories for ministers of religion—commissioned, which should be reflected in this paragraph.
- Bylaw 1.03, paragraph b, p. 9: To apply for and retain membership in the Synod, a congregation must have its constitution approved by the district board of directors. The national Synod does not approve constitutions of congregations.
- Bylaw 1.04, paragraph b, p. 9: When listing the directors of the board of directors, the bylaw currently lists “two teachers.” It is unclear whether only teachers are eligible or whether the wider category of ministers of religion—commissioned is intended. This same clarification would also be helpful in Bylaws 5.03 a and b; 5.04 a and c; and 5.06 b.
- Bylaw 2.01, paragraph a, p. 14: This bylaw regarding the duties of the board of directors requires clarification in light of Synod Bylaws 3.3.5.3, 3.3.5.4, 4.5.1, etc. It would be helpful to use more closely the terminology used in the Synod’s bylaws.
- Bylaw 3.01, paragraph a, p. 17: “Pastors” is used in the Bylaws of the Synod to refer to parish pastors (v. those on candidate or emeritus status, those serving in institutional settings, etc.). Unless parish pastors are solely intended, it would be more clear to use “ordained minister” terminology.
- Bylaw 3.04, paragraph b, p. 18: This provision exceeds what is currently provided in the Synod’s Bylaws and does not clarify who, how, or why officers may be removed. If it has not done so, the district will want to consider state law requirements and may want to remove this paragraph for the present time to allow the Synod’s Commission on Structure and the 2010 convention to provide a more general solution to the issue of removal of officers and board members.
- Bylaw 3.07, paragraph a, p. 19: Since the bylaw speaks in general of the duties pertaining to the office of district president, a reference to appropriate paragraphs of Synod Constitution Art. XII and Bylaw section 4.4 could be helpful.
- Bylaw 3.12, paragraph a, p. 20: This bylaw includes the district treasurer as a member of the district staff. Its final sentence should therefore exclude the treasurer since his position may not be eliminated.
- Bylaw 4.05, paragraph a, p. 22: Synod Bylaw 4.2.1 (a) provides for districts to be governed by the bylaws adopted by the Synod for its convention so far as they are applicable. The list of those entities eligible to submit overtures should therefore be the same as the list provided by Synod Bylaw 3.1.6.2.
- Bylaw 5.01, paragraph a, p. 23: This bylaw’s reference to “teacher” and “district teachers” is unclear as to whether it refers only to school teachers or whether it is intended to include all commissioned ministers. A similar clarification would also be helpful in Bylaw 5.06 a.
- Bylaw 5.06, paragraph b, p. 26: This paragraph’s list of positions to be filled by conventions should also include a member of the Synod’s Committee on Convention Nominations as provided by Synod Bylaws 3.12.3.1–3.12.3.3 (every other convention).
- Bylaw 6.04, paragraph a, p. 27: This paragraph’s provisions for amendments to the district’s bylaws should also include a requirement for review by the Synod’s Commission on Constitutional Matters to ascertain that they are in harmony with the Constitution, Bylaws, and resolutions of the Synod (Synod Bylaw 3.9.2.2.4).

The commission asked that the district give serious consideration to these recommendations and to report back its response and any convention actions.

(C) Missouri District Bylaws (09-2550)

With a February 12, 2009 e-mailed letter, the president of the Missouri District submitted his district's proposed bylaw changes along with the results of a review of those changes by his district's constitution committee. Upon review of the proposed changes, the commission found itself in agreement with the district constitution committee and its comments. However, upon review of the district's current Bylaws as provided with the documentation for the proposed bylaw changes, the commission instructed its secretary to provide a copy of its "Frequently Noted Aberrations" document for the district's use for further review of its Bylaws. It also made the following recommendations:

- Under Article I, section E, paragraph 1: The realignment of circuits requires district convention action unless such responsibility has been delegated by bylaw or convention action to the district board of directors. Circuits may not do their own realigning.
- Under Article VII, section A, the reference to "chapter VIII" of the Synod's Bylaws should be updated to "Bylaw 1.10.10."
- Under Article VII, section B, paragraph 2: The reference to "chapter VIII" of the Synod's Bylaws should be updated to refer to "Bylaw section 1.10."
- Under Article IX: The paragraph providing for amendments to the Bylaws should include mention of the need for review by the Synod's Commission on Constitutional Matters (Synod Bylaw 3.9.2.2.4).

(D) Minnesota North District Bylaws (09-2551)

With a February 14, 2009 e-mailed letter, the secretary of the Minnesota North District shared a copy of an overture to the district's convention to eliminate all term limits for district elective positions. After review, the commission expressed its thanks to the district for its cooperation in providing the bylaw change for review prior to its convention and noted that the proposed change is in harmony with the Constitution, Bylaws, and resolutions of the Synod.

(E) South Dakota District Bylaws (09-2553)

With a March 17, 2009 letter, the president of the South Dakota District provided a copy of a district convention overture proposing an addition to a district bylaw governing the installation and beginning of duties of the district's newly elected officers and directors following a convention. The commission expressed its appreciation to the district for its cooperation in providing for timely review of the proposed bylaw change prior to the district convention. The commission found the change to be in harmony with the Constitution, Bylaws, and resolutions of the Synod.

(F) Mid-South District Bylaws (09-2554)

With an e-mailed letter dated March 12, 2009, the President of the Mid-South District provided a copy of the district's Bylaws with proposed changes for convention consideration. The letter noted the district's intention to do "an overhaul" of the Bylaws during the next triennium. With that in mind the commission thanked the district for its cooperation in providing the bylaw changes prior to convention consideration, refraining from conducting a thorough review of the entire Bylaws in lieu of the district's intention to do its major overhaul. The commission requested that the district provide

a copy of the district Bylaws after its bylaw committee has done its work, presumably well in advance of the next district convention, also providing at that time a copy of the Policy-Based Governance Document mentioned in the Bylaws.

(G) Southeastern District Bylaws (09-2555)

With an e-mailed March 17, 2009 letter, the President of the Southeastern District provided a copy of two overtures submitted to the district convention proposing bylaw changes. The commission noted with appreciation the efforts of the district to honor the commission's earlier recommendations. The commission did note the following concern in the second overture:

- Regarding the proposed change to Article V, Section 2 a, to read: "All nominees for all offices shall be members in good standing of an SED congregation," Synod Bylaws 4.3.1 and 4.3.3 only require that candidates be "from the clergy roster of the Synod" and "members of member congregations of the district upon assuming office and during the course of their tenure." To require that all "nominees" be members of district congregations is in conflict with the referenced bylaws of the Synod. Instead, the district bylaw should more accurately reflect Synod Bylaw 4.3.3.

(H) North Dakota District Bylaws (09-2549)

The commission recalled the e-mail correspondence that it had received from the President of the Synod while the North Dakota District convention was in session, indicating that the district was considering one or more resolutions intended to amend the district's Bylaws. The commission instructed its secretary to write a letter to the district president reminding the district of the requirement of Bylaw 3.9.2.2.4 that the commission examine in advance all proposed bylaw amendments and requesting copies of all such 2009 convention actions for review.

**88. Agency Policy Manuals Review**

The commission continued its review of the policy manuals and other official documents of the boards of the Synod, as follows:

(A) Board for Pastoral Education Policy Manual and Campus Policy Manual (06-2471)

Upon review of the most recent version of the Board for Pastoral Education Policy Manual, the commission noted with appreciation the board's efforts to incorporate the commission's earlier recommendations for changes to the manual. The commission reiterated its request that the board consider one additional change:

- Paragraph 1 under section 0.2: According to Bylaw 1.2.1 (a) (1), "agency" is the more appropriate term to be used in reference to the Board for Pastoral Education, since "agency" includes the boards of the Synod.

Upon review of the most recent version of the Board for Pastoral Education Campus Policy Manual, the commission again noted with appreciation the board's efforts to incorporate the commission's earlier recommendations for changes to the manual. The commission requested consideration of these additional changes:

- Page 1: The LCMS Mission Statement as adopted by the Synod does not include the article "the" prior to "world" in the last line;

- Page 3: The reference in the first line should be to the “2007 LCMS *Handbook*”;
- Page 4: The reference in paragraph 2 under 1.3 should read “2007 LCMS *Handbook*”;
- Page 5: The reference in paragraph 6 under 1.4, paragraphs 1 and 2 under 2.1, and the paragraph under 2.2 should read “2007 LCMS *Handbook*”;
- Page 13: The parenthetical references in paragraphs 2 and 3 should read “2007 LCMS *Handbook*”;
- Page 19: The reference in paragraph 2 under 8.4 should read “2007 LCMS *Handbook*”;
- Page 20: The reference in the paragraph under 9.2 should be to the “2007 LCMS *Handbook*”;
- Page 25: The commission wishes to see a copy of the referenced statement regarding indemnification in the paragraph under 11.6;
- Page 30: The reference in the paragraph under 13.1 should be to the “2007 LCMS *Handbook*”; and
- Page 32: The reference in paragraph 2 under 13.3 should be to the “2007 LCMS *Handbook*.”

The commission asked the secretary to communicate with the board, asking for clean copies of the board’s policy documents after final changes have been made.

(B) Board for University Education Amended and Restated Articles of Incorporation and Bylaws of the Concordia University System; Board Policy Manual; and Presidents’ Board Manual (06-2472)

The commission reviewed the various documents submitted by the Board for University Education/Concordia University System and offered the following comments. Regarding the Amended and Restated Articles of Incorporation:

- The Concordia University System (CUS) is established by LCMS Bylaw 3.6.6, which indicates that these Articles of Incorporation (and Bylaws) are to “further the objectives and duties of a board for university education within the Synod.” It will be more helpful to follow the language of the Synod’s *Handbook* vs. that which the proposed amendments provide, *i.e.*, Article “Fourth” talks about the corporation “organizing” the colleges and universities, which varies from the language of Synod Bylaw 3.8.3.1, which describes the function of the Board for University Education (BUE) as “supervising and coordinating.” Of more concern are the following subparagraphs.
- Article “Fourth,” subparagraph (a) directs the BUE/CUS to “approve formal courses of instruction,” a purpose and authority not included in the list of purposes set forth in Bylaw 3.8.3.4.
- Article “Fourth,” subparagraph (b) identifies the purpose of the BUE/CUS as providing “cooperative endeavors and services,…” whereas Bylaw 3.8.3.4 (a) describes the function of the BUE as developing “detailed coordinating policies and procedures for cooperative roles and responsibilities of the colleges and universities.”
- Article “Fourth,” subparagraph (c), while laudable, is not within the list of BUE/CUS responsibilities. Bylaw 3.8.3.4 (j) directs the BUE to “assist congregations and districts in student recruitment for both professional church work and lay higher education” but does not direct the BUE or the colleges and universities “to extend to the congregations of the Synod an array of resources…” to aid and encourage proclamation of the Word of God.

- Article “Fourth,” subparagraphs (d) and (e) are also laudable objectives but not contained in Bylaw 3.8.3.4.
- Article “Fifth” makes no reference to the *Handbook*, which directs in Bylaw 3.6.6.1 that the Board for University Education shall serve as the Board of Directors of the Concordia University System.
- Article “Ninth” should reflect that no amendment may be in contravention to the Constitution or Bylaws of the Synod, and that proposed amendments of the Articles of Incorporation are required to be submitted to the Commission on Constitutional Matters in advance to ascertain whether the proposed changes are in harmony with the Constitution, Bylaws, and resolutions of the Synod, as required by Bylaw 3.9.2.2.4.

Regarding the proposed Amended and Restated Bylaws of the Concordia University System, the following:

- Article I Section 2 calls for a triennial meeting at which the members will elect directors. However, the directors of the BUE are the directors of the CUS, five of nine of whom are elected by conventions of the Synod—this in addition to the election of the President, who is automatically a member of the BUE unless he has designated a representative. The “election” of the remaining three members of the BUE takes place as described through an election by the delegates of the members themselves.
- Article I Section 3 omits reference to Bylaw 3.8.3.4 (p) or in some other way acknowledges a general submission to the Bylaws of the Synod.
- In Article II Section 1 it should be noted that the bylaws propose to add qualifications to the lay persons to be elected by the delegates of the CUS. In particular, they add a requirement that those lay persons have financial, administrative, or academic expertise. The list of potential nominees is also limited in the bylaws to those presented by the CUS Board of Directors, while no such limitation exists in the Synod’s Bylaws. The process for the election of the three lay members set forth in the last two paragraphs in this section is again not contained in the Bylaws of the Synod but does not seem to violate them.
- Article II Section 2 allows for the removal of directors by the electors at any time for cause. The Synod has not yet resolved the issue of removal of board members and will likely address it again at its 2010 convention. The commission is suggesting that all such provisions in agency documents be removed until such time as the Synod addresses the matter in broad terms. At particular issue is the question of removal of convention-elected board members.
- Article II Section 4 allows for a “telegraphed” notice. It may be helpful to give consideration to adding provision of notice by e-mail.
- Article V, relating to the amendment of bylaws, should make mention of the requirement that amendments be consistent with the Constitution, Bylaws, and resolutions of the Synod and that all amendments are to be submitted to the Commission on Constitutional Matters in advance.

Regarding the Board Policy Manual, the following:

- While Policy 1.2 has been updated from the prior draft provided to the commission, the updated wording still lacks specific reference to colloquy issues.
- In a prior comment regarding Policy 3.4 (12), the commission noted that Synod Bylaw 3.8.3.4 (c) specifically makes the review and approval of new programs and the management of peer review

programs the responsibility of the BUE. The commission suggested that if these responsibilities are delegated to the executive director, the policy should make clear that the board retains final responsibility. This does not appear to have been done.

- Regarding Policy 6.3, the commission recommended that the Synod's interest in final approval should be reflected in paragraph 9 under 6.3 (and paragraph 2 under 6.4). This recommendation was not implemented.
- Regarding Policy 12.7, the commission's earlier recommendation that a change be made to recognize the authority of each institution to receive and match its own funds under Bylaw 3.8.3.6.4 (I) (2) also has not been implemented.

Regarding the Presidents' Board Policy Manual, no changes are being recommended. The commission instructed its secretary to request that a clean current copy of all BUE/CUS policy manuals be provided after final changes have been made.

#### (C) Board for District and Congregational Services Policy Manual (06-2476)

Upon review of the Board for District and Congregational Services Policy Manual, the commission noted that many of its earlier recommendations were followed. It offered the following additional recommendations:

- On page 3, Policy 1.1, the article "the" in the final line of the LCMS Mission Statement does not appear in the statement as adopted by the convention.
- On page 5, Policy 1.5 overstates whom the board serves, identified by Bylaw 3.8.6.2 as the districts and congregations of the Synod.
- On page 18, Policy section 3.1, references to "law" in the paragraphs under 3.1 and 3.1.2 should be clarified to refer to "civil law."
- On page 19, Policy 3.3.4 would best be removed until the Synod has resolved the issue of removal of board members by convention action. In addition, the cross reference in this paragraph to Section 2 is mistaken, since there are not such provisions in that section.
- On page 24, the title of the section would better read "Executive Director Authority."
- On page 30, Policy 4.8.2 should include a provision that prior approval be obtained from the President of the Synod before consulting with other churches and governmental groups.

#### (D) Agency Policy Manuals Awaiting Review

Given limitations of time and, in some cases, a need for additional materials, the following agency policy manuals will be reviewed at a future meeting of the commission:

- Handbook for Doctrinal Reviewers
- LCMS Foundation Policy Manual
- CHI Policy Manual
- CTCR Policy Guidelines
- LCEF Policy Manual
- Concordia Plans Services Articles of Incorporation/Bylaws

#### **89. "Binding Force" Convention Resolutions (08-2542)**

A pastor of the Synod in a December 30, 2008 letter requested an opinion regarding the "binding force" of resolutions of the Synod in light of the commission's use of that terminology in its Opinion 08-2524. The

commission awaits responses from the Council of Presidents and the President of the Synod allowing them opportunity to submit information in writing regarding the matter at issue (Bylaw 3.9.2.2 [b]) before it responds.

#### **90. Constitution Article VI Terminology (09-2544)**

In a December 1, 2008 letter addressed to the Commission on Constitutional Matters (CCM) and the Commission on Theology and Church Relations (CTCR), a district president requested definitions of key terms in Article VI of the Synod's Constitution, such as "unionism," "separatism," "heterodox," "mixed confession," etc. The CCM discussed the request in light of prior opinions by the commission touching on the subject of this request. It was agreed that the CCM would suggest that the CTCR take the lead in addressing the theological questions at issue, after which the CCM would respond to any remaining constitutional or bylaw questions.

The commission agreed that this question will remain on its agenda until such time as a response is issued by the CTCR. The secretary was asked, however, to communicate with the district president who submitted the request to learn of his intentions and of any time expectations associated with his request.

#### **91. Doctrinal Review of Commission on Worship Materials (09-2547)**

In an e-mailed letter dated January 31, 2009, a pastor of the Synod requested an opinion regarding the doctrinal review of a list of contemporary Christian songs produced and made public by the Commission on Worship. After brief discussion of the request in light of Bylaws 1.9.1.1 and 3.9.3.2.2, the commission agreed to respond to the pastor that it would give his request attention after allowing the Commission on Worship to submit in writing information regarding the matter at issue (Bylaw 3.9.2.2 [b]). The requested response having been received only a short time before its meeting, the commission agreed to give attention to this question at its July meeting.

#### **92. Concordia University Ann Arbor Bylaws (09-2552)**

In a letter dated February 19, 2009, legal counsel for Concordia University, Ann Arbor responded to the commission's review of the university's Bylaws as approved by the Board of Regents on September 12, 2008. It was noted that the board adopted most of the commission's recommendations and requests. Several additional changes were proposed as well.

After reviewing the changes made, the commission expressed appreciation for the board's cooperation and for many of the resulting changes. However, the commission noted the following:

- The commission has recommended that paragraph 12.0 should include mention of the requirement of Synod Bylaw 3.9.2.2.4 for prior examination of all amendments by the Synod's Commission on Constitutional Matters to ascertain that they are in harmony with the Constitution, Bylaws, and resolutions of the Synod. This change has not been made. Further, the commission called attention to the need for the Board for University Education to conduct their own review prior to that of the Commission on Constitutional Matters, noting that there is also no provision for such review.
- The commission appreciated the response of the Board of Regents to its recommendation that language concerning the removal of a board member should be omitted for the time being to allow the Synod to take an action applicable to all boards. It asked the secretary to forward this particular section of legal counsel's letter to the Commission on Structure for its edification:

As requested by CCM in its July 7, 2008 letter, the Board of Regents did remove the language concerning the removal of a Regent for cause, Bylaw 4.08. We left

the heading for placement of the new procedure being developed by the Commission on Structure.

I do not want you to be deceived about the status of the Board's power to remove a Regent for cause during the interim period. [Michigan law] grants the board authority to remove board members for cause unless the bylaws declare otherwise. Therefore, compliance with the CCM request has not changed the power of the Board of Regents to remove a member for cause. Since the Regents are responsible for CUAA corporate actions under Michigan criminal statutes and civil law, and because CUAA's ability to provide immunity and indemnification is limited by those laws so that the Regents remain personally accountable, Michigan law presumes that the Regents will need to do what they need to do to prevent illegal corporate conduct, including to remove a board member that interferes [*sic*] with corporate efforts to comply with the law.

I presume that the replacement language being considered by the Commission on Structure will continue to empower the Board to remove members for cause using a process that will allow the Regents to retain sufficient control of the corporation including control of the board itself.

- Regarding the dispute resolution process issue, although the Board of Regents has done a good job with its own process, use of the Synod's processes (Bylaw 3.8.3.8.9 and Bylaw section 1.10) is a right that must first be granted or utilized to the extent they are applicable.
- Regarding faculty appointments, Synod Bylaw 3.8.3.8.3 clearly gives authority only to the Board of Regents to appoint full-time members of the faculty upon recommendation of the president of the institution. This section of the Concordia Ann Arbor's Bylaws must be revisited and Bylaw 3.8.3.8.3 should be quoted. The commission instructed its secretary to provide copies of this February 19, 2009 letter to the Board for University Education and other university presidents, inviting them to weigh in on this subject.

### **93. Agency Resolutions and Synod Actions (09-2556)**

A pastor of the Synod, in an e-mailed March 18, 2009 letter, asked the following questions regarding an agency's possible negative response to an action taken by the Synod.

Question 1: May an agency of the Synod (such as a district), by defeating a resolution to participate in a Synod initiative or action (or by any other means) opt not to participate in an initiative or action passed by the Synod in convention? What would be the effect of an agency's resolution to participate in an initiative or action passed by a resolution of the Synod in convention, which is defeated by the agency? How should the members of the Synod regard an agency's resolution to participate in an initiative or action passed by a resolution of the Synod in convention, which is defeated by the agency? How should the officers of the national Synod and/or the various districts of the Synod regard such a resolution?

Question 2: May an agency of the Synod (such as a district), by passing a resolution not to participate in a Synod initiative or action (or by any other means) opt not to participate in an initiative or action passed by the Synod in convention? What would be the effect of an agency's resolution not to participate in an initiative or action passed by the Synod in convention? How should the members of the Synod regard an agency's resolution not to participate in

an initiative or action passed by the Synod in convention? How should the officers of the national Synod and/or the various districts of the Synod regard such a resolution?

Opinion: An agency of the Synod is defined in Bylaw 1.2.1 as follows:

(a) **Agency:** An instrumentality other than a congregation, whether or not separately incorporated, which the Synod in convention or its Board of Directors has caused or authorized to be formed to further the Synod's objectives.

(1) Agencies include each board, commission, council, seminary, university, college, district, Concordia Plan Services, and each synodwide corporate entity.

As defined, an agency is an instrumentality authorized, formed, or created by the Synod in order to fulfill or further the Synod's objectives. As suggested by the questions, a district is certainly an agency of the Synod.

Bylaw 1.4.1 describes the relationship of the Synod to all of its officers and agencies:

The delegate convention of the Synod is the legislative assembly that ultimately legislates policy, program, and financial direction to carry on the Synod's work on behalf of and in support of the member congregations. **It reserves to itself the right to give direction to all officers and agencies of the Synod** [emphasis added]. Consequently, all officers and agencies, unless otherwise specified in the Bylaws, shall be accountable to the Synod for all their actions, and any concerns regarding the decisions of such officers or agencies may be brought to the attention of the Synod in convention for appropriate action. This provision does not apply to specific member appeals to the Concordia Plans, which has its own appeal process for such cases.

Certain agencies of the Synod, including districts, have particular authority to make recommendations to the Synod through its national convention. In doing so, however, agencies of the Synod, including districts, are not allowed to ignore or overrule the decisions of the Synod, but rather to influence or seek to influence the Synod through its conventions. Bylaw 1.4.2 reads as follows:

The delegate convention of each district of the Synod receives reports and counsel from the national Synod, makes recommendations thereto, assists in implementing decisions of the Synod, and adopts or authorizes programs to meet the unique needs of the district.

With respect to districts as agencies of the Synod, districts hold a special relationship to the Synod. As indicated in Bylaw 4.1.1: "The Synod is not merely an advisory body in relation to a district, but establishes districts in order more effectively to achieve its objectives and carry on its activities." Bylaw 4.1.1.1 is even more explicit as it relates to districts: "A district is the Synod itself performing the functions of the Synod. Resolutions of the Synod are binding upon the districts." Bylaw 1.3.6 makes clear a district's responsibility over against resolutions of the Synod: "Districts and circuits as component parts of the Synod are obligated to carry out resolutions of the Synod and are structures for congregations to review decisions of the Synod, to motivate one another to action, and to shape and suggest new directions."

Some resolutions of the Synod are intended to require participation by every agency of the Synod. Others are intended to encourage, but not require, participation by agencies of the Synod. Yet others may identify specific goals or objectives of the Synod, leaving to agencies of the Synod to determine whether or not the initiative falls within their area of expertise or responsibility.

To the extent that a resolution of the Synod establishes an initiative directing action or participation by an agency of the Synod, whether a district or other agency, it is not the prerogative of the agency to determine whether it wants to participate. Rather, it is required as part of its covenant with the Synod to do so. The refusal of an agency of the Synod, including a district, to follow or accept the resolutions of the Synod is without authority and should be considered null and void.

This issue has been raised in the past. For example, in Ag. 632 (1974) the Commission on Constitutional Matters opined: “All resolutions of districts which provide for district action which is in conflict with the above are unconstitutional and therefore null and void (Article XII, 2; Bylaw 3.07). Districts and district presidents are obligated to carry out the resolutions of the Synod (Article XII, 9, a; Bylaw 3.07, a).” [The referenced Bylaw 3.07 is now Bylaws 4.1.1 and 4.1.1.1 in the 2007 *Handbook*.]

Similarly, with respect to doctrine taught and practiced by the Synod through its resolutions, the issue has previously been raised in Opinion 00-2212, as follows:

Bylaw 2.39, c [2007 *Handbook* Bylaw section 1.8] describes the procedure for dissent to doctrinal resolutions of the Synod by members of the Synod. Districts are not members of the Synod but are divisions of the Synod, “the geographical boundaries of which are determined by the Synod and are altered by it according to circumstances” (Article XII, 1). “The Synod establishes districts in order more effectively to achieve its objectives and carry on its activities” (Bylaw 4.01) [2007 Bylaw 4.1.1]. As such, districts “as component parts of the Synod are obligated to carry out the resolutions of the Synod” (Bylaw 1.05, f) [2007 Bylaw 1.3.6]. An official action by a district, therefore, to file an expression of dissent to the Synod regarding a doctrine taught and practices by the Synod is out of order and, therefore, null and void.

In circumstances where the Synod has adopted a resolution calling for action or participation by a specific agency of the Synod, or by all its agencies, the agency is not at liberty to ignore that resolution. Any attempt by the agency to pass a resolution calling for the agency’s disobedience of such resolution is without authority and thus should be considered null and void. Under such circumstances, the matter should be brought to the attention of the President of the Synod, who is charged under Bylaw 3.3.1.2: “The President shall oversee the activities of all officers, executives, and agencies of the Synod to see to it that they are acting in accordance with the Constitution, Bylaws, and resolutions of the Synod.”

#### **94. Blue Ribbon Task Force on Synod Structure and Governance (BRTFSSG)**

Commission member and BRTFSSG member Will Sohns introduced the “Walking Together” document and slide presentation that is being used in district conventions to inform the church regarding and to invite response to proposals being considered by the task force. After discussion of the document, the commission also discussed its role in the development of *Handbook* amendment proposals to come before the 2010 convention of the Synod.

#### **95. Future Meeting Dates and Adjournment**

After establishing July 10-11 as its next meeting date, the meeting was adjourned with prayer.

Raymond L. Hartwig, Secretary

## MINUTES

### COMMISSION ON CONSTITUTIONAL MATTERS Conference Call Meeting June 8, 2009

#### **96. Call to Order**

In the absence of Chairman Albert Marcis, Secretary Raymond Hartwig called the meeting to order and called on Wilbert Sohns for an opening prayer. Also participating in the meeting were Philip Esala and Daniel Lorenz.

#### **97. Review of Proposed Amendments to Michigan District Bylaws (09-2557)**

The commission reviewed the two resolutions proposing changes to the Bylaws of the Michigan District and offered the following regarding each:

Res. 2-02: The commission advises restating the second “Whereas” paragraph to more accurately reflect the content of Synod Bylaw 4.2.1. In addition, under Article III, paragraph 3.3, the commission advises inserting “or parish” after “congregation” in the third line to echo the language of the Synod’s Constitution, Art. V A.

Res. 2-03: The commission finds no reason for comment.

The commission also gave attention to the three resolutions proposing changes to the Bylaws of the Church Extension Fund of the Michigan District. While the commission suggests that references to the “national CEF program” should more accurately reference the “Lutheran Church Extension Fund—Missouri Synod,” and while the commission advises that the proposed wording under the “Membership” section under the fourth resolve would be improved by using the Synod’s terminology for individual members as in Synod Bylaw 1.2.1 (k), the commission also notes that Synod Bylaw 3.6.4.4 places district church extension funds under no other limitations other than to relate to the Board for Church Extension of The Lutheran Church—Missouri Synod. The commission therefore suggests that the bylaw changes proposed by Resolutions 2-04, 2-05, and 2-06 would better be submitted to the Board for Church Extension of The Lutheran Church—Missouri Synod for review.

Finally, in reviewing the proposed convention actions, the commission had opportunity to consider the proposed bylaw changes in light of the entire Bylaws of the district. Noting several areas that may invite further comment, the commission will place their review on its agenda for its next meeting.

#### **98. Adjournment**

With all business to come before the commission having been completed, the meeting was adjourned with prayer.

Raymond L. Hartwig, Secretary

## MINUTES

### COMMISSION ON CONSTITUTIONAL MATTERS Crowne Plaza Airport Hotel, St. Louis July 10–11, 2009

#### **99. Call to Order**

Chairman Albert Marcis called the meeting to order with all members present. Wilbert Sohns provided an opening devotion reminding of the urgency of Christ's mission.

#### **100. Matters Pending**

During the course of the meeting, the following agenda items were retained for inclusion on the agenda of the August 29-30 meeting of the commission:

- 08-2517 – Handbook for Doctrinal Reviewers: The commission anticipates additional documentation from the Commission on Doctrinal Review.
- 08-2523 – CHI Policy Manual: The commission noted that it has not received a copy of CHI's Bylaws and will conduct a review of the agency's policies upon their receipt.
- 08-2526 – Concordia Plans Services Policy Review: The commission reviewed Concordia Plans Services' Articles of Incorporation and Bylaws (see below). The policy material recently received will be reviewed at the commission's next meeting.
- 08-2536 – Oklahoma District Bylaws Review: The commission asked the Secretary to call the district's attention to its need to continue work on its Bylaws following its recent convention.
- 08-2542 – Binding Force Resolutions Question: It was noted that, while invited, no additional information has been received from the Council of Presidents or the President's Office regarding the issues raised. A member of the commission was asked to provide a draft response for discussion at the next meeting.
- 09-2544 – Article VI and Heterodox Congregations: These questions will remain on the commission's agenda until input is received from the Commission on Theology and Church Relations upon its study and preparation of "Guidelines for Inter-Christian Relationships." The Secretary was asked to inform the district president who submitted the request for an opinion of the process being used to provide a response.
- 09-2549 – North Dakota District Bylaw Amendments: The commission will review bylaw changes made by the North Dakota District at its 2009 convention upon their receipt from the district. The Secretary will again request copies of bylaw-related convention actions.
- 09-2552 – Concordia Ann Arbor Bylaws: The Secretary was asked to respond to legal counsel for the school, informing him that the commission will be pleased to respond to the questions he has raised but that they must be submitted by one of the individuals or agencies listed in Bylaw 3.9.2.2.
- 09-2559 – Concordia Publishing House Articles of Incorporation and Bylaws Review: A recently received document will be reviewed by the commission at its next meeting. Additional policy materials will be requested from CPH prior to the meeting.

- Bylaw Section 2.15 *Standard Operating Procedures Manual* will be the next procedures manual to be revised by the commission in consultation with the Council of Presidents. The Secretary will provide an initial draft.

### **101. LCMS Foundation Policy Manual Review (08-2522)**

The commission completed its review of the LCMS Foundation’s Board Policy Manual and called the following concerns to the Foundation board’s attention:

- In the interest of uniformity of capitalization and grammar in the Synod’s various documents, the commission is providing its “Frequently Noted Aberrations” document for the board’s use when editing its manual.
- Re Policy 2.3.1, mention should also be made of the LCMS Bylaws, especially Bylaw 3.6.5, as a basis for determining the scope of the board’s activities.  
Re Policy 2.3.3.1 *et. al.* where reference is made to “law,” it should be clarified that reference is being made to “civil” law.
- Re Policy 2.4.1, the bylaw reference in parentheses should be “(Synod Bylaw 3.6.1.4)”.
- Re Policy 2.4.4 d, the bylaw reference in parentheses should be “(See Synod Bylaw 3.6.1.4 [b])” Reference should also be made to the Synod’s requirement for a five-year review and reappointment of chief executives under Bylaw 1.5.5.1 (a) (3).
- Re Policy 3.1, mention after (a) in the paragraph should also include mention of the Constitution, Bylaws, and resolutions of the Synod.
- Re Policy 3.2.1, mention should also be made that referred-to actions are to be consistent with the Constitution, Bylaws, and resolutions of the Synod.
- Re the final sentence of the final paragraph under Policy 3.4.2, Bylaw 1.5.5.1 (a) provides that a “chief executive or executive director shall serve at the pleasure of the board or commission.” While encouragement to honor the expectations of Matthew 18:15-16 is proper and while the president may make use of Bylaw section 1.10, the bylaw grants to the board the right to a no-fault release of the president from his position.
- Re Policy 3.5.2.3, the commission notes that if the Foundation operates with the same fiscal year as does the Synod, this policy may better refer to “proposed” budgets.
- Re Policy 3.5.3.2, the proper title for the Treasurer of the Synod is “Vice-President–Finance—Treasurer.”
- Re the paragraph under “Mega-Limitation” under section “4. Executive Limitation Policies,” mention of the Constitution, Bylaws, and resolutions of the Synod will help to clarify the phrase “doctrine and practice” of the Synod.
- Re 4.9, “Organizational Structure,” the Bylaw reference should be Bylaw 1.2.1 (a). Mention of the needs and missions of other agencies should also include mention of the Synod itself.
- Re 4.11.1, the listing of those whose rights are to be protected should also include mention of the Synod and its agencies, as in Synod Bylaws 3.6.5 and 3.6.5.1.

## **102. Commission on Theology and Church Relations Policy Manual (08-2525)**

Upon its review of the Policy Manual of the Commission on Theology and Church Relations, the Commission on Constitutional Matters offered the following recommendations:

- Re Section II “Membership of the CTCR,” the commission advises the use of the actual language of the Bylaws (3.9.6.1 and 3.9.6.1.1) to clear up several inaccuracies in the paragraph.
- Re the quotation of Bylaw 3.9.6.3.1, since it is presented as a quotation, the bylaw should be quoted *verbatim*. As it stands, the second part of the paragraph is not a quotation of the bylaw.
- Re Section IV “CTCR Committee Structure,” what the commission calls “standing committees” does not appear to correspond to the Synod’s use of the term in Bylaw 1.5.3.4.
- Re paragraph 12 under “General Principles” relating to committee structure, Bylaw 1.5.3.4 requires regular supervision of committees by the commission vs. having committees only “ordinarily” report to the plenary.
- Re Section V “Guidelines for Consideration of CTCR Documents,” the bylaw reference in paragraph e under B 1 should be Bylaw 1.8.2.
- Under the same Section V, the reference to “Section 8 below” in paragraph 7 under B appears to be mistaken as there is no such section.
- Under the same Section V, the reference in paragraph 2 under D should be #1 rather than “#11,” and the word “from” in the third line of paragraph 3 should read “form.”
- Under Section VII “CTCR Policy for Responding to Expressions of Dissent,” the bylaw reference in the introductory paragraph would more accurately read “Bylaw section 1.8.”

The Secretary will also include a copy of the commission’s “Frequently Noted Aberrations” document to assist the Commission on Theology and Church Relations in complying with and applying the grammatical usage of the *Handbook* of the Synod to its policy documents.

## **103. Concordia Plan Services Articles of Incorporation and Bylaws Review (08-2526)**

Upon review of the Articles of Incorporation and Bylaws of Concordia Plans Services, the commission recommended the following to its Board of Directors:

- Under Bylaw Article III “Board of Directors,” the commission notes that the nomenclature “Board of Managers of the Worker Benefit Plans” in paragraphs A and B needs to be updated to correspond to the nomenclature used in the *Handbook* of the Synod under Bylaw section 3.7.
- Under Bylaw Article IV “Officers of the Corporation,” paragraph C “Term of Office” should be evaluated in light of Synod Bylaw 1.5.5 to make certain it allows compliance with the Synod’s requirement of a 5-year comprehensive review of chief executives.
- Under Bylaw Article V A “Right of Indemnity,” the commission recommends that the attention of the Board of Directors and legal counsel be called to this paragraph and to the entire matter of indemnification throughout the agencies of the Synod.

The commission also noted its receipt of copies of the various committee charters and board governance guidelines and principles of Concordia Plans Services just prior to the meeting and agreed to review these documents when it next meets.

#### **104. Lutheran Church Extension Fund Policy Manual Review (08-2530)**

After review of the Board Policy Manual of The Lutheran Church Extension Fund—Missouri Synod, the commission made the following observations and recommendations:

- Under “1. Desired Outcomes Policies,” the first statement referring to the mission statement should also reference Bylaws 3.6.4 and 3.6.4.5.1 as contributing to the agency’s desired outcomes.
- Under “2.5 Board Self-Review,” such review should also include focusing on fulfilling Synod bylaw expectations.
- Under “2.7 Executive Committee of the Board,” Policy 2.7.3.1 should also make mention of the requirement of Synod Bylaw 1.5.5.1 (a) (3) for a comprehensive five-year review.
- Under “3.2 Actions Requiring Board Approval,” Policy 3.2.2.4 should more accurately reflect the provision of Policy 2.9.1 that the board ratifies these audit committee appointments that are actually made by the chairman of the board.
- Under the same section 3.2, Policy 3.2.3 governing the granting of Recognized Service Organization status should name The Lutheran Church Extension Fund Board of Directors as the granting agency, since such granting privilege belongs only to program boards and synodwide corporate entity boards (the “operating boards” specified in Bylaw 6.2.1 [c]). The bylaw reference in the policy (13.03) should be updated to read “Bylaw section 6.2.” This same concern that it is the LCEF Board that grants RSO status exists later in “4.15 Executive Limitation Policies” for the Board for Church Extension, which section would better be placed under the responsibilities of the LCEF Board of Directors.
- The “Mega-Limitation” paragraph under “4. Executive Limitations Policies” should include, in addition to the Constitution and Bylaws, reference to the resolutions of the Synod.
- Under “4.3 Organizational Structure,” the reference in Policy 4.3.2 to other Synod “entities” might more appropriately be “agencies” as defined by Bylaw 1.2.1 (a). The same may also be true of Policy 4.5.2.3. In both cases, “entities” would be appropriate if the congregations of the Synod are meant to be included, since congregations are not agencies of the Synod.
- Under “4.13 Conflict Resolution,” the bylaw reference in Policy 4.13.1 should be updated to Synod Bylaw section 1.10.

#### **105. Commission on Worship Materials (09-2547)**

A pastor of the Synod in an e-mailed letter dated January 31, 2009, submitted questions regarding the Commission on Worship’s request for doctrinal review assistance in the preparation of their response to 2007 Resolution 2-02A, which called on the commission to produce a list of contemporary songs for use in congregational worship. The pastor submitted two related questions to the Commission on Constitutional Matters.

Question 1: Is the “Song Evaluations” produced by the Commission on Worship subject to Bylaw 1.9.1.1 (g) as claimed by the Office of the President of the Synod (*ex post facto*) or to Bylaw 3.9.3.2.2 in light of the fact that the Commission on Worship submitted it to doctrinal review?

Opinion: The report by the Commission on Worship evaluating contemporary worship songs issued in response to 2007 Synod convention Resolution 2-02A “To Provide Guidance and Direction for Use of

Diverse Contemporary Worship Resources” is not subject to doctrinal review. The following are the applicable bylaws:

*Material Subject to Doctrinal Review*

1.9.1.1 The following materials are subject to doctrinal review:

(a) All official periodicals and journals of the Synod as well as any material with doctrinal content issued publicly by boards, commissions, or other subordinate groups of the Synod except as stipulated in these Bylaws shall be subject to doctrinal review....

(g) Official reports of the boards, commissions, task forces, and committees of the Synod prepared in response to directives from the Synod shall not be subject to doctrinal review.

The referenced Commission on Worship report is clearly an official report prepared, following input solicited from doctrinal review, in response to a directive of the Synod. This report evaluated songs previously published by others. While the songs referenced in the report were doctrinally evaluated, the materials cited were not subject to official doctrinal review under Bylaw 1.9.1.1.

Question 2: Was *Lutheran Service Book* merely an “official report” per Bylaw 1.9.1.1 or was it subject to doctrinal review? Since *LSB* did undergo doctrinal review, please explain why it would not fall under Bylaw 1.9.1.1 as the President’s Office has done with 100 approved songs for use in worship?

Opinion: *Lutheran Service Book* was subject to doctrinal review since it was “material with doctrinal content issued publically by boards, commissions, or other subordinate groups of the Synod” (Bylaw 1.9.1.1 [a]). See also the response to question 1 above.

**106. Michigan District Bylaws Review (09-2557)**

When the commission reviewed proposed changes to the Bylaws by the Michigan District during its most recent meeting, it noted several areas in the existing Bylaws that invited further review. Upon such review, the commission now offered the following recommendations:

- Under Article I “Membership and Organization,” Bylaw 1.1 does not clearly reflect that congregational and church worker memberships are actually held in the Synod and not in districts, and that membership is received by and through districts, not by the national Synod.
- Under the same Article I, Bylaw 1.2 fails to include circuits in the organizational structure of the district, circuits being “component parts” of the Synod created by districts (Synod Bylaw 1.3.2). The bylaw does mention four levels of organization, but only three are listed.
- Under Article II, “Regional Assemblies,” Bylaw 3.3, which allows each congregation to be represented at a Regional Assembly, inaccurately states that the same is true of district conventions. In the latter case, congregations that are part of a multi-point parish share their vote at district conventions (Synod Constitution Art. V A).
- Under Article V, “Elections and Vacancies,” Bylaw 5.7 omits mention of the election of the district’s member on the Synod’s Committee for Convention Nominations at alternate district conventions (Synod Bylaw 3.12.3.1).
- Under the same Article V, Bylaw 5.9 refers to elections “held in Regional Caucus.” The commission is unaware of any elections taking place on the regional level, which serves as the primary source for nominations for elections on the district level.

- Under the same Article V, Bylaw 5.12 should reflect the provision of Synod Bylaw 4.3.1 that district officers such as vice-presidents must be elected from the clergy roster of the Synod.
- Under the same Article V, Bylaw 5.15, the provision that one layperson should be elected by the district convention should be changed to reflect the second provision of Synod Bylaw 3.8.3.6.2 which calls for the election of two laypersons by the district.
- Under Article VII “Board of Directors,” the reference to the Synod bylaw should be Bylaw 4.5.1.
- Under the same Article VII, paragraph b of Bylaw 7.4 should be clarified since “all the other officers of the district elected by the convention” would technically include all of the circuit counselors and not just their chairman.
- Under Article VIII “Officers and Administration,” Bylaw 8.2 is not consistent with the Bylaws of the Synod regarding vice-presidents, who do not perform acts authorized by the Board of Directors.
- Under the same Article VIII, Bylaw 8.6 is mistaken in stating that according to the Synod’s Bylaws, the primary responsibility of circuit counselors is “establishing and maintaining circuit forums.” Synod Bylaw section 5.2 speaks of a variety of services performed by circuit counselors, the primary responsibility being that of maintaining liaison between the circuit and the Synod (paragraph d).
- Under Article XI “Reconciliation and Dispute Resolution,” the reference in Bylaw 11.1 to the Synod *Handbook* should be Bylaw section 1.10.
- Under Article XII “Committees,” Synod Bylaw 1.5.3.4 does not grant the right to create standing committees to a district convention as is currently provided in district Bylaw 12.1.

#### **107. New England District Bylaw Changes (09-2558)**

With an e-mailed letter dated June 8, 2009, the Secretary of the New England District submitted changes to the district’s Bylaws during its 2009 convention, also providing a copy of the current Bylaws. After review of the convention actions, the commission granted approval to those changes. Upon further review of the existing Bylaws document, however, the commission made the following observations and recommendations:

- Under Article III “Officers,” paragraph a of Bylaw 3.11, while true, should also make mention of the resolutions of the Synod as well as its “policy.”
- Under the same Article III, paragraph c of Bylaw 3.11 does not take into consideration Synod Constitution Article XII, paragraph 7 *et al.* where the Synod has already determined the primary responsibilities of the district president.
- Under the same Article III and Bylaw 3.11, paragraph f exceeds the Constitution and Bylaws of the Synod regarding the relationship of a district board of directors and its president. The same would be true of paragraph d under Bylaw 3.12.
- Under the same Article III, Bylaw 3.32 is too broad as it stands since it contradicts the requirements for the appointment of circuit counselors in Synod Bylaw 5.2.2.1. Synod Bylaw 4.5.1 (c) also calls this bylaw into question, since it is not “guided generally by the functions of the Board of Directors of the Synod as defined in Bylaws 3.3.5ff as these apply to districts.
- Under Article IV “Board of Directors,” paragraph b of Bylaw 4.01 is unclear in its use of the term “pastors.” This term as used in the Synod’s Bylaws refers specifically to parish pastors. The commission wonders whether this narrow understanding (vs. “ordained ministers”) is what the

district intends. The commission also wonders whether the reference to “non-clergy professional worker” is the same as the Synod’s “commissioned minister,” in which case the Synod’s terminology would be preferred.

- Under the same Article IV, the filling of a vacancy on the district board of directors under Bylaw 4.05 is not generally in agreement (Synod Bylaw 4.5.1 [c]) with the filling of vacancies on the Synod’s Board of Directors, where the Board of Directors fills its own vacancies (Synod Bylaw 3.2.5).
- Under the same Article IV, Bylaw 4.21 should also mention the powers and duties given to the board of directors by the Constitution, Bylaws, and resolutions of the Synod.
- Under the same Article IV, the Synod *Handbook* reference in district Bylaw 4.22 should be Synod Bylaw 4.5.1.
- Under Article V “Executive Committee,” the provision in paragraph b under Bylaw 5.21 regarding the duties of the executive committee should include the requirement that the committee report its actions to a plenary session of the board (Synod Bylaw 1.5.3.2 [b]).
- Under Article VIII “Nominations and Elections,” Bylaw 8.12 a should include the requirement that the two nominees are to be from the clergy roster of the Synod.
- Under the same Article VIII, Bylaw 8.20, the commission reminds the district of its recommendation when it reviewed proposed amendments at the time of the 2003 district convention: “In revised Bylaw 8.20 b, reference is made to “vice presidential area,” but the Bylaws do not appear to define how such areas are determined. A future convention will be well advised to include such a provision in the Bylaws.”
- Under Article IX “Amendments,” Bylaw 9.03 should include reference to both the Constitution and the Bylaws of the Synod.

As the commission reviewed the New England District Bylaws, it noted two areas that are rarely addressed in the Bylaws of the Synod’s districts: indemnity clauses and provisions for the use of electronics to satisfy meeting requirements. The commission instructed the Secretary to bring the issue of indemnity clauses to the attention of the Board of Directors of the Synod and to bring the issue of electronic communications to the attention of the Commission on Structure.

#### **108. Review of Amendments to Articles of Incorporation and Bylaws of Minnesota South District (09-2560)**

With a letter dated June 30, 2009, the secretary of the Minnesota South District forwarded a resolution adopted by the district during its June 11–13, 2009 convention that amended the district’s Articles of Incorporation and Bylaws governing to the authority of its board of directors. Upon review, the commission approved the changes that were made.

#### **109. Dispute Resolution Process Review Panel Membership (09-2561)**

In a letter dated July 6, 2009, a pastor of the Synod asked a series of questions regarding the service of certain reconcilers on Review Panels in the Synod’s dispute resolution process. After consideration and discussion of pertinent bylaws, the commission responded to each of the questions.

Question 1: Would it be viewed as providing a fair process if a reconciler who had already served in a dispute resolution process (*i.e.*, as a reconciler, dispute panel member, facilitator, or in the blind draw) were then to serve on the Review Panel of the same case?

Opinion: The commission regards this question as not answerable, since it does not ask for an interpretation of the Bylaws. It asks for the commission’s opinion whether the situation described “would be viewed as providing a fair process.”

Question 2: If a reconciler had participated earlier in the dispute resolution process (*i.e.*, as a reconciler, dispute panel member, facilitator, or in the blind draw), should that reconciler (member) still be eligible to serve on the Review Panel of the same case?

Opinion: While this question is not specifically addressed in the bylaws governing Review Panels as part of the dispute resolution process, Bylaw 1.10.16.1 provides opportunity to a party to the dispute to request disqualification of a panel member. Paragraph P of the “General Regulations” provided in the *Standard Operating Procedures Manual* for Bylaw section 1.10 expands upon this right:

P. *Disqualification of Reconcilers or Panel Members:* The standard for disqualification shall be actual partiality or the appearance thereof. When identified by blind draw, reconcilers, hearing facilitators, and panel members shall be contacted personally by the acting administrator of the dispute resolution process (see paragraph [a] of Bylaw 1.10.4) to discuss their availability to serve. The administrator shall provide information regarding the dispute and the parties to the dispute to surface potential conflict of interest concerns. Any reconciler or panel member may disqualify himself or herself from service. Circumstances that are thought to or are likely to affect performance of duties and the outcome of a formal process shall be disclosed to the administrator.

Any party and/or parties to a dispute shall have the right to request disqualification of a reconciler, hearing facilitator, panel member. If that individual does not agree to the disqualification, the decision shall be made by a separate three-member panel of reconcilers drawn for that purpose according to the method for blind draw provided in this manual. In the event of a disqualification, another individual shall be chosen, again by blind draw from the appropriate pool of names. If a pool of names is exhausted, a new pool shall be developed in the same manner as the former.

Question 3: Ought not a clause be added to Bylaw 1.10.15.1 (b) and 1.10.15.2 (b) which could be worded like: (new and additional wording underlined): “No member shall be selected from the district in which the dispute arose, or, if it is a Synod question, from any district in which a party holds membership, or who was engaged previously in the same dispute resolution proceedings, or in the dispute resolution selection process of the same case”?

Opinion: Again, the commission regards this question as not answerable, since it does not ask for an interpretation of the Bylaws. It asks for the commission’s opinion whether “a clause be added” to the existing bylaws. However, the commission does instruct the Secretary to bring this concern and suggestion to the attention of the Synod’s Commission on Structure.

## **110. Final Business, Adjournment, and Closing Prayer**

Remaining meeting time was used to discuss the work of the Blue Ribbon Task Force on Synod Structure and Governance and the commission’s anticipated role as the task force prepares its report. After again noting the commission’s next meeting date, August 29-30, the meeting was adjourned with prayer.

Raymond L. Hartwig, Secretary

## MINUTES

### COMMISSION ON CONSTITUTIONAL MATTERS August 29–30, 2009

#### **111. Call to Order and Opening Prayer**

Chairman Albert Marcis called the meeting to order and called on Gordon Tresch for an opening devotion. Upon review of the agenda for the meeting, it was noted that 08-2526 should have been retained on the agenda due to the recent receipt of additional documents for review.

A motion “to move into executive session to discuss issues related to Board of Directors actions” was introduced and carried.

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#### **111X. Executive Session**

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#### **112. Review of Blue Ribbon Task Force on Synod Structure and Governance Constitution and Bylaw Proposals**

A large portion of the meeting was used to review proposed constitution and bylaws changes of the Blue Ribbon Task Force on Synod Structure and Governance, the commission having determined this to be a priority for its meeting. As a result of the discussion, the Secretary was asked to prepare a draft of the proposed constitution and bylaw changes reflecting the commission’s recommendations, to be reviewed by the commission during a conference call within the next week, to then be presented to the task force in time for its final meeting, September 23–25, 2009.

#### **113. Binding Force Resolutions (08-2542)**

Referencing CCM Opinion 08-2524, which referred to 2004 Res. 3-05A, “To Affirm Marriage as Union of One Man and One Woman,” a pastor of the Synod in a letter dated December 30, 2008, asked the commission whether other resolutions in the same category were equally binding with similar attending disciplinary action.

Question: I would appreciate your opinion on other convention resolutions and whether they are to be considered in the same category, *i.e.*, equally binding; in addition, I request that your opinion include similar disciplinary action as given in 08-2524, as well as directions for district presidents (and circuit counselors) in monitoring and supervising parish pastors and other rostered ministers and minimum standards for doing so, with attending disciplinary action for district presidents who do not follow such direction.

Opinion: Opinion 08-2524 is not only applicable to the matter of 2004 convention resolution 3-05A but to all resolutions, as already stated in the bylaw quotations included in the opinion:

Under the assumption that 2004 Res. 3-05A is in accordance with the Word of God, the Synod expects every member congregation of the Synod to respect the resolution and consider it of binding force (Cf. Bylaw 1.7.2). Bylaw 1.6.2 states, “Such resolutions come into being in the same manner as any other resolutions of a convention of the Synod and

are to be honored and upheld until such time as the Synod amends or repeals them” (emphasis added; cf. also Bylaw 1.8.1). Bylaw 1.7.1 further states, “The Constitution, Bylaws, and all other rules and regulations of the Synod apply to all congregational and individual members of the Synod.”

Opinion 08-2524 also referenced 1971 Res. 2-21 which confirmed the binding nature of such resolutions. In addition to the pertinent quotes from the 1971 resolution in the above opinion, the convention resolution also stated, “Meanwhile every member of the synod is held to abide by, act, and teach in accordance with the Synod’s resolutions....the Synod has repeatedly declared that all members should ‘honor and uphold’ its resolutions (cf.: 1962, 3-17; 1965, 2-08; 1967, 2-04; 1969, 2-27)....To ‘honor and uphold’ means not merely to examine and study them, but to support, act, and teach in accordance with them until they have been shown to be contrary to God’s Word” (1971 *Convention Proceedings*, p. 119).

Ecclesiastical supervision by the President of the Synod or by the district presidents, including any needed disciplinary measures, as indicated in the CCM opinion (08-2524), is not limited to 2004 Res. 3-05A: “Resolution 3-05A, together with all of the resolutions of the Synod, has implications for ecclesiastical supervision” (emphasis added). The provisions for such ecclesiastical supervision (Bylaw 1.2.1 [g]) are set forth in Articles XI, XII, and XIII of the Constitution as well as in the Bylaws of the Synod, including but not limited to Bylaw section 2.1; Bylaws 2.14.1 and 3.3.1–3.3.1.3, and Bylaw section 4.4 (Synod *Handbook*, pp. 50, 62–62, 101–104, and 189–191).

Any district president who fails to carry out his responsibility of ecclesiastical supervision is subject to the measures of Constitution Art. XI B and Bylaw sections 1.10 and 2.15 (*Handbook*, pp. 15–16, 37ff., and 71ff.).

#### **114. Other Matters**

Other matters discussed during the meeting:

- Provision of guidelines for the convention floor committee that is assigned those overtures intended to overrule CCM opinions
- 2007 Overtures 3-93 and 3-94 re 2001 Res. 3-07A, referred to the commission by omnibus resolution
- Reconsideration of CCM Opinion 99-2157 upon referral of 2007 Overture 8-44 by omnibus resolution

Materials to facilitate further discussion will be provided by members of the commission prior to its October meeting.

The commission also planned for its members to attend one of the Blue Ribbon Task Force Regional Gatherings scheduled between December 4 and February 20. Travel cost will be a CCM budget expense.

#### **115. Future Meetings**

The commission agreed to a special September 3, 10:00 a.m. CDT conference call meeting to review its recommendations to the Blue Ribbon Task Force on Synod Structure and Governance. The next regular meeting of the commission will be October 31–November 1 in St. Louis.

  
Raymond L. Hartwig, Secretary

## MINUTES

### COMMISSION ON CONSTITUTIONAL MATTERS St. Louis Crowne Plaza Airport Hotel October 31–November 1, 2009

#### **119. Call to Order**

Chairman Albert Marcis called the meeting to order with all members of the commission present. After providing an opening devotion based on Psalm 46:1–7, 10–11, he reviewed and finalized the agenda for the meeting. It was agreed that pending reviews of agency policy manuals and bylaws (08-2517; 08-2523; 08-2526; 08-2530; 08-2536; 09-2549; 09-2552; 09-2559; 09-2563) and one pending request for an opinion (09-2544) would await a later meeting, given the commission's heavy agenda.

#### **120. Bylaw 3.9.2.2 (c) Implementation Guidelines**

A draft guidelines document to help those convention floor committees assigned overtures proposing the overturn of CCM opinions to understand how the commission carries out its responsibility for interpretation of the Constitution, Bylaws, and resolutions of the Synod was reviewed. After discussion, the following guidelines document was adopted, to be provided to convention floor committees as appropriate and appended to the internal governing documents of the commission.

#### **BYLAW 3.9.2.2 (c) GUIDELINES**

Overtures may be submitted to a convention of the Synod requesting the overturn of a formal opinion of the Commission on Constitutional Matters. Floor committees assigned such overtures must consider them in light of the provisions set forth in Bylaw 3.9.2.2 (c):

*(c) An opinion rendered by the commission shall be binding on the question decided unless and until it is overruled by a convention of the Synod. Overtures to a convention that seek to overrule an opinion of the commission shall support the proposed action with substantive rationale from the Constitution, Bylaws, and resolutions of the Synod. All such overtures shall be considered by the floor committee to which they have been assigned and shall be included in a specific report to the convention with recommendations for appropriate action.*

In order to assist floor committees receiving such assignments, the commission respectfully offers the following background and information outlining how, based on substantive rationale, the commission arrives at its opinions.

#### **1. Understanding the Role of the Commission on Constitutional Matters and its Responsibility for Interpretation**

Dr. C.F.W. Walther stated in his 1879 essay, "Duties of an Evangelical Lutheran Synod," presented to the first Iowa District convention: "Therefore, anyone who joins a synod knows in advance: 'I am now becoming a member of an organization that is charged with the responsibility of supervising church affairs; I am also joining an organization that operates with a specific system of regulations [*Ordnung*], for without regulations it could not exist.'" (*Essays for the Church, C.F.W. Walther, Vol. II, CPH, 1992*).

Through the delegation of responsibilities, the members of the Synod carry out what they themselves decide, which is expressed and set forth in the Synod's Constitution, Bylaws, and resolutions. Historically, the Commission on Constitutional Matters (CCM) has been responsible for providing the important service of interpretation of the Synod's Constitution, Bylaws, and resolutions, thereby assisting the members of the Synod in carrying out in a fitting and orderly manner the Synod's "church affairs" through its "system of regulations."

The commission does not develop policies or programs, nor does it supervise their implementation. The commission does not see to it that the Constitution, Bylaws, and resolutions of the Synod are carried out, nor does it interpret the Scriptures. Through its opinions, however, the commission does carry out its particular responsibility to interpret (between conventions) the collective will of the Synod as specified in the Constitution, Bylaws, and resolutions of the Synod. And while having no authority over any officer, board, or commission, the commission does state through its opinions/interpretations precisely what authority this Synod of self-governing congregations has reserved unto itself alone and what the Synod has delegated specifically to others.

In the commission's important function of interpreting, it thereby assists in the clarification and understanding of the Constitution, Bylaws, and resolutions for the members of the Synod, thereby helping to promote harmony and to prevent self-will, self-ambition, controversy, dissension, and division. This function of interpretation is stressed in the Bylaws of the Synod:

*The Commission on Constitutional Matters exists to interpret the Constitution, Bylaws, and resolutions of the Synod and ensure that the governing instruments of the Synod and its agencies are in accord with the Constitution and Bylaws of the Synod. (Bylaw 3.9.2; see also Bylaw 3.9.2.2.4)*

*The Commission on Constitutional Matters shall interpret the Synod's Constitution, Bylaws, and resolutions upon the written request of a member (congregation, ordained or commissioned minister), official, board, commission, or agency of the Synod. (Bylaw 3.9.2.2)*

*The Commission on Constitutional Matters shall examine all reports and overtures to the Synod asking for amendments to the Constitution and Bylaws of the Synod or which in any manner affect the Constitution and Bylaws, to determine their agreement in content and language with the Constitution and Bylaws of the Synod. (Bylaw 3.9.2.2.1)*

*[Amendments to bylaws] shall be examined by the Commission on Constitutional Matters prior to presentation to the convention to determine that they are not in conflict with the Constitution and Bylaws of the Synod. (Bylaw 7.1.1 [c])*

Underscored words and phrases in the preceding paragraphs (emphasis added) call attention to the need for interpretation to "ensure that the governing documents of the Synod and its agencies are in accord," to "determine their agreement in content and language," and to "determine that [amendments] are not in conflict" with the Synod's Constitution, Bylaws, and resolutions.

## 2. Understanding the Rules and Principles of Interpretation Used by the Commission on Constitutional Matters in Carrying Out its Responsibility for Interpretation

The commission, whose opinions substantially are or are based upon interpretation, follows rules or principles of interpretation to arrive at its opinions, including the following:

- Grammatical exegesis (deriving the meaning of a text), looking at the text as a literary document with a literary context and historical setting. Grammar, logical discourse, word meaning, and word usage are of utmost importance.
  - Intended sense, recognizing that the author intended one, simple, seminal, certain, literal, ordinary, natural sense—not several meanings.
  - Immediate context, noting the “passages,” titles, subtitles, and section(s) immediately surrounding the text.
  - Broader context, taking into consideration the entire chapter and/or document and its interrelationship with the text in question.
  - Self-interpretation, allowing the governing document to interpret itself and its parts.
  - Unity, recognizing the overall polity of the Constitution, Bylaws, and resolutions of the Synod and their unity of authorship, content, function, and purpose.
  - Constitutional priority, allowing the Constitution of the Synod to control and supersede the Bylaws and all other rules and regulations.
  - Clarity, granting that a text’s clarity or lack thereof may be due to the blindness of the interpreter (“The sun is not less bright because a blind man cannot see it”—Gerhard).
  - History, taking into consideration the genesis and historical context of a passage from the Constitution, Bylaws, or resolutions of the Synod.
3. Understanding the Use of Research by the Commission before Arriving at an Opinion/Interpretation

The commission is careful to utilize, as much as possible, basic and thorough research before arriving at its opinions. Such research includes in every case:

- The handbooks of the Synod, past and present. The first English language *Handbook* was produced and published in 1924. A collection of handbooks is maintained in the Office of the Secretary and is consulted regularly.
- Convention workbooks and proceedings to study resolutions past and present--their origin and intended purpose. A collection of workbooks and proceedings is maintained in the Office of the Secretary and is consulted regularly.
- All relevant CCM opinions from 1965 to the present, honoring their binding nature while noting relevant constitution and bylaw changes/amendments since they were issued. Members of the CCM have access to an electronic collection of CCM minutes from 1965 to the present.

**121. Authority of the Board of Directors (09-2564)**

In an August 11, 2009 letter, a pastor of the Synod requested the commission’s response to a series of questions regarding the announced decision of the Board of Directors to proceed with the sale of Radio Station KFUE-FM. After consideration of input received from the Board of Directors, the Board for Communication Services, and the Synod’s legal counsel, the commission agreed to seek further opportunity for dialogue with the board before issuing its opinion.

**123. Interpretation of “Another Capacity” in Bylaw 3.8.3.8.7 (b) (09-2565)**

In a letter dated September 14, 2009, a member of the Synod requested interpretation of Bylaw 3.8.3.8.7 (b) and its requirement that a faculty member terminated for reasons not related to competency or faithfulness be offered opportunity to serve “in another capacity.” The commission asked the Secretary to request that the Board for University Education and the Board of Regents of

Concordia University Ann Arbor provide input regarding the question. The Secretary was also asked to request the member requesting the interpretation to confirm whether or not he/she had been appointed to a continuing level faculty position (Bylaw 3.8.3.8.2) and whether or not he/she had been terminated from that position pursuant to Bylaw 3.8.3.8.7.

#### **124. Interpretation of Constitution Article XIV re Proposing Amendments (09-2566)**

In a September 24, 2009 e-mailed letter, the chairman of the Blue Ribbon Task Force on Synod Structure and Governance, speaking on behalf of the task force, requested an interpretation of the words “each proposed change shall be voted on separately” in paragraph 2 of Article XIV of the Constitution of the Synod.

Question: Since the task force has several constitutional changes which it will be presenting to the 2010 convention, and some of those related, does each change, no matter how small, have to be presented and voted on separately?

Opinion: Amendments to the Constitution are governed by Article XIV, paragraphs 2 and 3:

2. All proposed changes and amendments must be submitted in writing to the Synod assembled in convention, and each proposed change shall be voted on separately. A two-thirds majority of all votes cast shall be necessary for adoption.
3. After adoption by the convention, such amendments shall be submitted to the congregations of the Synod by means of three announcements in the official periodical within three months after the close of the convention.

In researching past opinions of the Commission on Constitutional Matters, the commission noted that the issue raised by this question has never been previously considered. Prior to 1917, the Constitution of the Synod allowed amendments without reference to the phrase under consideration. Therefore, the commission has looked at the practice of the Synod since 1917, such practice reflecting the sense and intent of the Synod since that time.

As recently as the 2004 convention, the Synod considered and acted on two constitutional amendments. Resolution 7-21 sought to amend a single article of the Constitution, Article XI F 2. The second, Resolution 5-04A, sought to add directors of family life ministry to the list of those eligible for membership in the Synod. In doing so, the resolution called for amendments in Articles V, VI, and XII.

In view of the foregoing, the commission finds that the phrase “each proposed change shall be voted on separately” may be properly interpreted in at least two ways. First, all changes to a single article can be submitted as a single change. Because, by reason of the structure of the Constitution, each article intentionally deals with a single subject, all amendments to a single article may always be considered a single change.

Second, as with 2004 Res. 5-04A, changes in multiple articles reflecting a single thematic change may also be considered a single change.

#### **125. Reductions in Force (09-2567)**

In an e-mailed letter dated October 19, 2009, a Dispute Resolution Panel submitted the following request for an opinion.

**Question:** Could the provisions of Bylaw 3.8.3.8.7 of the LCMS be used as a model throughout the Synod in implementing reductions in force?

**Opinion:** Bylaw 3.8.3.8.7, like Bylaw 3.8.2.7.7, lists “reduction of the size of staff in order to maintain financial viability in compliance with policies concerning fiscal viability” as an allowable cause for the termination of faculty positions by the boards of regents of the Synod’s institutions of higher education.

The intention of these bylaws is stated in the 1989 convention action that introduced “reduction in force” into the Bylaws of the synod, that is, to provide “guidance to boards of regents regarding termination of faculty or staff positions at synodical colleges and seminaries because of external institutional circumstances which do not reflect on the competency or faithfulness of individuals holding the positions” (1989 Res. 6-10 “To Add Bylaw 6.44 re Termination of Position”).

The provisions of Bylaw 3.8.3.8.7 (and 3.8.2.7.7) were not specifically intended to be used as a model throughout the Synod in implementing reductions in force. However, the Synod has recognized the right of other entities to eliminate positions no longer deemed necessary by the hiring entity.

#### **126. Application of Bylaw 3.8.8.2.2 to Recognized Service Organizations (09-2568)**

In a letter dated September 26, 2009, a pastor of the Synod requested an opinion of the commission regarding the application of Board for Mission Services Bylaw 3.8.8.2.2 to Recognized Service Organizations of the Synod. He asked the commission to take into consideration Bylaw 1.2.1 (a) and (d) and Bylaw 6.2.1.

The commission will invite input regarding this question from the Board of Directors and the Board for Mission Services before preparing its response.

#### **127. Regional Gatherings (09-2569)**

In an e-mailed letter dated October 21, 2009, a pastor of the Synod requested “an expedited opinion” on a series of questions regarding “the proposed special meetings the Synod President has called prior to the 2010 convention.

**Question 1:** Are the proposed regional “gatherings” in regards to the work of the Blue Ribbon Task Force on Synod Structure and Governance to be considered “special sessions of the Synod,” as defined/explained in Article VIII B of the Synod’s Constitution? Or are they something else? If not “special sessions of the Synod,” under what section of the Constitution or Bylaws does the President of the Synod call these meetings? If these meetings do not fall under the category of a regular Synod convention, or a special session of the Synod, by what authority are the districts assessing their circuits for the cost of these meetings?

**Opinion:** These are not “special sessions of the Synod” as defined in the Synod’s Constitution. Nor are they early “sessions” of the 2010 convention. These are informational meetings to be attended by those invited, especially the elected voting delegates to the 2010 convention. Synod Bylaw 3.1.9 places the responsibility “for the overall organization and operations of the conventions of the Synod” on the President of the Synod. If he determines that convention business is of such significance and/or complexity that it will require pre-convention informational meetings, calling and arranging such meetings is his prerogative.

Question 2: May informational meetings designed to assist delegates understand the issues, such as these are described, preclude alternate delegates or interested visitors from attendance? If so, based upon what part of the Constitution or Bylaws? Are advisory delegates allowed to attend these meetings and have voice, as they would at a convention?

Opinion: It is the commission's understanding that a two-way flow of information is intended at these meetings. Those in attendance will receive a presentation regarding the final report of the task force. They will also be provided opportunity to respond to the chairman and vice-chairman of the convention floor committee to which the task force report will be assigned. The President may invite whom he chooses to accomplish these purposes.

Question 3: Bylaw 3.1.2.2 says that delegates begin their term "with the convention." Would these meetings conflict with that by moving the start of their terms to these regional meetings?

Opinion: The commission notes that it is not unusual for delegates to be involved in convention activity prior to the official opening of a convention, e.g., when they are appointed to serve on convention floor committees.

### **128. Clarification of Opinion 02-2309 (09-2570)**

In a letter dated November 5, 2009, the President of the Synod referenced Opinion 02-2309 and the on-going conversation in the Synod regarding it and related opinions. He stated his belief that it would be "helpful and even necessary to assist the Synod in its understanding of matters addressed by these opinions" by preparing "a succinct yet comprehensive review and summary of the topics addressed by CCM Opinion 02-2309 and any subsequent opinions, reports, resolutions, or other documents that pertain thereto." After discussing the President's concern with him in executive session, the commission agreed to give consideration to a draft of the requested review at its next meeting.

### **129. 2007 Convention Omnibus Resolution Assignments**

The commission reviewed the overtures referred to it by 2007 Omnibus Resolution A:

- Regarding Overtures 3-93, "To Determine Status of 2001 Res. 3-07A re Church Fellowship," and 3-94, "To Consider 2001 Res. 3-07A Not a Doctrinal Resolution," the commission noted that it has provided an opinion regarding said resolution's application (02-2294), an opinion that remains unchanged.
- Regarding Overture 8-44, "To Request Reconsideration of Opinion 99-2157 re Art. VII," the commission agreed to place this matter on the agenda of its next meeting under the title, "Reconsideration of Opinion 99-2157."

### **130. Blue Ribbon Task Force on Synod Structure and Governance Report**

The commission discussed the final report of the Blue Ribbon Task Force on Synod Structure and Governance at length. The commission agreed to look for an early opportunity to discuss the content of the report with the appropriate floor committee leaders. The Secretary was asked to provide a side-by-side comparison of proposed bylaw changes to facilitate the discussion.

The commission also discussed the implementation of the proposals in the report, to be continued at its next meeting. The Secretary noted ramifications from the report for the Committee for Convention Nominations, scheduled to meet in early December. Steps will be proposed to allow the committee to

move forward with additional slates of candidates should the task force proposals be adopted early in the 2010 convention. The commission will also propose early convention actions to accommodate the nomination committee's use of names of current board and commission members to prepare slates for new positions advocated in the task force report.

**131. Adjournment**

Time available for the meeting having expired, the meeting was closed with words of benediction.

Raymond L. Hartwig, Secretary