

**A Minority Statement**  
**on**  
***In Statu Confessionis*: A Response to Questions from the Praesidium of the Synod**

And he gave the apostles, the prophets, the evangelists, the pastors and teachers, to equip the saints for the work of ministry, for building up the body of Christ, until we all attain to the unity of the faith and of the knowledge of the Son of God, to mature manhood, to the measure of the stature of the fullness of Christ, so that we may no longer be children, tossed to and fro by the waves and carried about by every wind of doctrine, by human cunning, by craftiness in deceitful schemes. Rather, speaking the truth in love, we are to grow up in every way into him who is the head, into Christ, from whom the whole body, joined and held together by every joint with which it is equipped, when each part is working properly, makes the body grow so that it builds itself up in love. – **Ephesians 4:11-16 (ESV)**

Winds and waves have threatened the Church throughout her history. They alarm us now in The Lutheran Church – Missouri Synod. We cry for our Lord to awaken and to save us, lest we perish outside our familiar boat. Many fear that it may break apart and sink.

In recent months several congregations and pastors have felt compelled to declare themselves *in statu confessionis*, that is, in a state of confessional protest, over and against the Synod of which they are members. Many others are seriously contemplating such an action. The reasons, the timing, and the practical ramifications vary. Some have suspended Communion with specific individuals in leadership positions. Others have announced their intention to refrain from Communion with all who have not declared themselves in a similar state of protest. Still others continue to commune while making their protest. Some only find the protests confusing or tedious.

The CTCR is to be commended for presuming that the protestors' concerns are sincere and conscientious. The Commission also did well to recognize

that the step of issuing a confessional protest may have arisen out of a deep seated frustration that the concerns and reservations of these individuals and congregations are not being given the serious consideration that they believe they deserve within the established structures of the Synod. Their protest is something of a final attempt, short of leaving the Synod, to draw attention to their concerns.<sup>1</sup>

As emphasized in footnote 3, the Praesidium requested specific answers to specific questions that left the Commission very little flexibility in this assignment.

With regard to the theological, confessional and/or historical principles on which such a protest of *in statu confessionis* may be declared, I would encourage members of the Praesidium and Council of Presidents to study several other sources of information which are readily accessible online:

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<sup>1</sup> *In Statu Confessionis*: A Response to Questions from the Praesidium of the Synod, adopted April 15, 2005, Question 4 (b). Placed online May 2005  
([http://www.lcms.org/graphics/assets/media/CTCR/Adopted%20In%20Statu%20Confessionis\\_April%202005.doc](http://www.lcms.org/graphics/assets/media/CTCR/Adopted%20In%20Statu%20Confessionis_April%202005.doc)), 5-6.

- **“*Status Confessionis and Selective Fellowship*,”** by the Rev. Dr. W.M. Oesch; translated by J. Val. Andreae, *Sola Scriptura* 1, no. 4 (Jan/Feb 1971): 19-24. This article provides an excellent theological assessment of *in statu confessionis* and its alternatives. Most of the paper (Theses 1-11 of 14) may be accessed at: <http://www.lutherannews.info/articles/SolaScriptura.htm>.
- ***In Statu Confessionis: Origins and Development***, by the Rev. Dr. Albert Collver of DeWitt, MI. This presentation was first delivered to a conference called *Confession and Christ's Mission: Challenges to the Future of the LCMS* held at Apostles Lutheran Church in Melrose Park, IL on October, 22 2004. The author concluded that “a status confessionis protest against a church body does not seem to be a tenable option to those who take the Lutheran Confessions seriously.” The transcript of the original paper is available at <http://www.consensuslutheran.org/modules.php?op=modload&name=News&file=article&sid=373&mode=thread&order=0>. It later appeared as an article in *Logia: A Journal of Lutheran Theology*, XIV (Eastertide 2005). The CTCR majority referenced this article in its response to the Praesidium.
- ***In Statu Confessionis (A State of Confessional Protest)***, by Dr. Alvin E. Wagner. This 18-page paper provides a general, historical and scriptural definition of the concept of *status confessionis*. It was first delivered to the *Conference of Authentic Lutherans* at North Hollywood, California on January 19, 1975. <http://www.wls.wels.net/library/Essays/Authors/w/WagnerProtest/WagnerProtest.pdf>.
- ***In Statu Confessionis ...unity in orthodox confession of faith, not political "institutional conservatism"***. This webpage by one organization in the LCMS presents a brief summary of the scriptural basis for this action, and a description of what it might entail: <http://reformationtoday.tripod.com/chemnitz/id11.html>
- ***State of Confession for Trinity Lutheran Church, Herrin IL***. This State of Confession was passed at the Voters' Assembly of Trinity Lutheran Church on Sunday, January 9, 2005. It identifies six points in which the congregation insists that the LCMS is teaching and/or tolerating falsehood. These can be found at <http://www.concordtx.org/msnews/herrin.htm>. On March 30, 2005, Trinity's pastor, Michael D. Henson (also a Vice-President of the Southern Illinois District) delivered a presentation to the Lutherans United conference in Bloomingdale, IL in which he described what led his congregation to declare *in statu confessionis*. Read it at: <http://www.cat41.org/ePosium/archive/HensonLU3-05.pdf>.
- ***What Do You Mean: "In Statu Confessionis?"***, by Pastor James W. Tauscher. This paper, delivered to the Fall Pastoral Conference of the South Central District of the Wisconsin Evangelical Lutheran Synod at Fort Worth TX on October 22, 1990, describes the history of *in statu confessionis* as used by the WELS to protest against the LCMS within the Synodical Conference. <http://www.wls.wels.net/library/Essays/Authors/T/TauscherStatu/TauscherStatu.pdf>

Unlike the Commission majority, I recognize a certain consistency within the Lutheran tradition. The circumstances which gave rise to *in statu confessionis* certainly varied. But the action generally arose to challenge efforts to impose practices upon Christians (or perform such practices in Christ's Name) that they understood to be incompatible with the Gospel or contrary to the Scriptures and Confessions. The common element is the

protest of faith and free conscience against coercion or misrepresentation through political mandates or bureaucratic indifference.

Congregations and pastors in The Lutheran Church-Missouri Synod are protected against such coercion by Article VII, Section One of their Synodical Constitution. It states:

In its relation to its members the Synod is not an ecclesiastical government exercising legislative or coercive powers, and with respect to the individual congregation's right of self-government it is but an advisory body. Accordingly, no resolution of the Synod imposing anything upon the individual congregation is of a binding force if it is not in accordance with the Word of God or if it appears to be inexpedient as far as the condition of a congregation is concerned (*2004 Handbook*, 14).

Within the LCMS, it may be presumed that those declaring *in statu confessionis* are simply announcing to the rest of the Synod that some “resolution of the Synod ...is not in accordance with the Word of God.” Every LCMS member’s commitment to uphold Article II of the Constitution requires them to signal “an unwillingness or steadfast refusal to implement or follow” any such resolution.

It was impossible for me to concur with the majority’s response at several other points:

First, the Commission suggests that “The issuing of a state of protest calls into question the desire of these pastors or congregations to remain members of the Synod.” To the contrary, charity and fairness would recognize that these congregations and pastors have issued a state of protest precisely *because* they *do* wish to remain members of the Synod! The LCMS is a voluntary association, and members who wish to leave may easily do so.

Second, the Commission asserts that “the suspension or withholding of Communion to fellow members of the Synod is by definition a severing of church fellowship (theologically speaking), regardless of one’s institutional affiliation or membership.” This contradicts centuries of Christian practice, whereby members refrain from communing when they remain unreconciled with others within their fellowship. The CTCR itself has described how pastors can and do take steps short of full excommunication when they withhold the sacrament from unrepentant sinners.<sup>2</sup> To suspend or refrain is not to sever. *In statu confessionis* may be viewed as an extraordinary but temporary measure of church discipline or unresolved conflict within a voluntary association, where ordinary channels for such discipline or conflict resolution seem to have broken down. If any district or synodical official wishes to challenge his suspension from a particular altar, he is always free to appeal to the congregation for a vote to overrule their pastor.

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<sup>2</sup> See *Church Discipline in the Christian Congregation*, A Report of the Commission on Theology and Church Relations, 1985, 16. For further reading see also Thomas C. Oden’s *Corrective Love: the Power of Communion Discipline* (St. Louis: Concordia Publishing House, 1995), and C.F.W. Walther’s *Pastoral Theology* (New Haven MO: Lutheran News, Inc., 1995), chapters 39-43.

Third, the Commission suggests that “If these pastors and congregations are consistent, it should be assumed that they take the same position regarding every member of the Synod that has not joined them in their protest.” No, it should not. Pastors and congregations are entirely consistent (and charitable) when they single out for Communion discipline only those who are “manifestly impenitent” of teaching falsely or sinning stubbornly. There is no consistency in disciplining those who are not actively promoting a teaching or practice contrary to Scripture or the Confessions. As the CTCR itself noted in *Theology of Fellowship* (1965): “In all these expressions in the Preface to the Book of Concord the Lutheran confessors are reaffirming the necessary distinction between heretics, who are outside the body of Christ, and erring Christians, who are and by God’s grace remain children of God, even though troubled by error.”<sup>3</sup> A declaration of *in statu confessionis* does not rashly pronounce someone a heretic, but speaks the truth in love to erring brothers and sisters. We are to recognize “. . . the responsibility devolves upon the theologians and ministers to remind even those who err ingenuously and ignorantly of the danger to their souls and to warn them against it, lest one blind person be misled by another.”<sup>4</sup> The one declaring *in statu confessionis* must always stand ready himself to repent when his own error is demonstrated from the Scriptures and Confessions.

Fourth, the Commission calls upon protestors to endure further wounds against conscience: “Until all avenues for working towards resolving matters between the Synod and the congregation and/or individual member of the Synod have been exhausted, none of the parties involved should refuse Communion to each other.” In a marriage afflicted with mistrust, anger and abuse, what kind of pastor would insist that the wife must consent to all her husband’s sexual advances “until all avenues for working towards resolving matters have been exhausted”? Communion is more intimate than sexual relations; it unites our souls. The Commission’s admonition fails to appreciate the deep sense of betrayal and violation felt by many in our Synod – among all parties to our disagreements. Repentance and reconciliation are necessary aspects of forgiveness and the full enjoyment of our fellowship in one body.<sup>5</sup>

Furthermore, synodical membership does not work like Visa or MasterCard: it guarantees no one automatic admission to a particular altar. Our synodical President has frequently noted that the Synod’s consistent practice of “close” communion has always made provision for “responsible pastoral discretion.” The binding and loosing keys belong to the Church and are administered by the parish pastor, not the synodical *Handbook*. Unlike the ELCA or the WELS, we recognize no scriptural or confessional basis for the congregation and its pastor to surrender those keys to the Synod.

Finally, to heal the divisions and mistrust in our midst, direct dialogue is essential. At some points the Commission relied heavily upon speculative suppositions: “It is our understanding that ...”, “This would seem to imply ...”, “... it appears on the one hand that the declaration of *in statu confessionis* is intended to serve as ... On the other hand, it

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<sup>3</sup> *Ibid.*, 25.

<sup>4</sup> *Theology of Fellowship*, A Report of the Commission on Theology and Church Relations, 1965, 25.

<sup>5</sup> See *Admission to the Lord’s Supper: Basics of Biblical and Confessional Teaching*, A Report of the Commission on Theology and Church Relations, 1999.

may be that they do not intend to ...” (7). Guesswork – charitable or otherwise – cannot substitute for speaking personally with one another to understand and accurately to represent the other’s actions, goals, motives and perspectives.

The Commission exhorts protestors to remain within the system: “The intention of the synodical procedures of dissent is to preserve and uphold the truth of the Gospel and all its articles on which our fellowship in the Synod is based.” The same can presumably be said of those declaring *in statu confessionis*, yet that same intention forces them to work outside of what they see as a theologically indifferent or corrupted system. Those District Presidents and other officials who are convinced that these protestors are wrong can only plead with them to see their own error, explain the scriptural and confessional basis for the objectionable matter, and call upon the protestors themselves to repent.

If no agreement can be reached, then the District President can only give his assent to the break in Communion fellowship. But he will do so from a firm conviction that the protestors are the truly stubborn errorists. Guilty of schism or sectarianism, their protest has made them subject to the Communion discipline of others. He will call upon the other congregations in his District to exercise that Communion discipline against those protestors, and from the Scriptures and Lutheran Confessions, he will clearly explain the reasons why this is necessary. This occurred when some were expelled from the Synod during the turmoil of the 1970s. A few years before that time, a long-time observer and devoted friend of the Lutheran Church-Missouri Synod wrote from Germany:

A truly faithful orthodox church is in a permanent *status confessionis* over against all others and so is each individual Christian. In instances where sound doctrine or practice are publicly deviated from in any way, faithful believers must publicly avoid such errors. This is what *status confessionis* requires! It is the only form of selective fellowship which follows the true doctrine of the Church. Not to observe it is a violation of that doctrine, a failure or refusal to put it into practice. It is the only form of selective fellowship which is permissible and sanctioned by the Lutheran Confessions.<sup>6</sup>

The Church has no sword other than the Word of God. She may compel nothing by force of bureaucracy, bylaw or bullying. Her only treasure is the Gospel; her only discipline is to withhold the gifts Christ has given from those who are unrepentant, pleading with them and praying for them to bring them to repentance, so that once again, she may share His gifts. For to her He has given the keys to heaven, and there is a key which binds as well as one that looses sin. Repentance and reconciliation – unity with one another through our unity in Christ – is the goal we all seek. Thankfully, the outcome does not depend upon us!

*The Church shall never perish! Her dear Lord, to defend,  
To guide, sustain, and cherish, is with her to the end.  
Tho’ there be those that hate her, false sons within her pale,*

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<sup>6</sup>W.M Oesch, “Status Confessionis and Selective Fellowship,” *Sola Scriptura Intercommunication* 1 (January – February, 1971),

*Against both foe and traitor she ever shall prevail.*

*Though with a scornful wonder men see her sore oppressed,  
By schisms rent asunder, by heresies distressed,  
Yet saints their watch are keeping; their cry goes up, "How long?"  
And soon the night of weeping shall be the morn of song.*

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