**To Amend LCMS Constitution Article XI**

Whereas, The 2016 Convention of The Lutheran Church – Missouri Synod, in its Resolution 12-14 [“Regarding the Right of an Accuser to Appeal When a District President or President of the Synod Fails to Act or Declines to Suspend”] and according to Bylaw 7.1.2, deferred its rightful legislative authority and directed the Board of Directors of the Synod to draft bylaws to resolve a situation where, it claimed, “portions of the expulsion processes of the Synod’s Bylaws are presently in an unconstitutional state with respect to Constitution Art. XI B 1-3 and Constitution Art. XIII 2”; and

Whereas, Resolution 12-14, resolves “That a consultation process shall be designed by mutual agreement of the Chairman of the Council of Presidents and the President of the Synod, by which the Council of Presidents shall have the opportunity to offer to the Secretary of the Synod input as to proposed mechanisms to implement expulsion processes consistent with and not contradicting the Constitution of the Synod”; and

Whereas, Resolution 12-14 states that the Commission on Constitutional Matters in Op. 16-2791 “has indicated portions of the expulsion processes of Synod’s Bylaws are presently in an unconstitutional state with respect to Const. Art. XI B 1-3 and Const. Art. XIII 2”, such bylaws having been adopted by the Synod in Convention in 2004, acting as the “principal legislative assembly” (Bylaw 3.1.1) of the Synod; and

Whereas, In 2004, those Bylaws were regarded as constitutional by the Commission on Constitutional Matters prior to the convention, as they fulfilled their function to “examine all reports, overtures, and resolutions of 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) and to “be represented at the meetings of national convention floor committees considering constitution and bylaw matters to ensure that they are in accord with the Constitution, Bylaws, and resolutions of the Synod” (Bylaw 3.9.2.2.2); and

Whereas, At no time since the adoption of the Bylaw provisions in 2004 until CCM 16-2791 had a Commission opined that these expulsion process bylaws were in an unconstitutional state; and

Whereas, The 2004 Commission on Constitutional Matters and the 2016 Commission on Constitutional Matters clearly provided different opinions on the constitutional state of the Synod’s bylaws with respect to Constitution Art XI B 1-3 and Art XIII 2 prior to the 2016 Synod convention; and

Whereas, The Board of Directors, acting under Bylaw 7.1.2 and at the express direction of the 2016 Resolution 12-14, in May of 2017 adopted changes to the bylaws of the Synod regarding ecclesiastical supervision; and

Whereas, The Secretary of the Synod, on November 3, 2017, published an article on the Synod’s website, recognizing the need to “relieve any confusion regarding these changes”; and

Whereas, The Constitution of Synod defines clearly, precisely, and fully the supervisory role of the President of Synod, wherein the President of Synod has the “the supervision regarding the doctrine and the administration of a. All officers of the Synod; b. All such as are employed by the Synod; c. The individual districts of the Synod; d. All district presidents” (XI.B.1); and

Whereas, The President of Synod, as ecclesiastical supervisor, may assume “only such rights as have been expressly conferred” (XI A.1 [“The officers of the Synod must assume only such rights as have been expressly conferred upon them by the Synod, and in everything pertaining to their rights and the performance of their duties, they are responsible to the Synod.”], and

Whereas, The duties are expressly conferred to be “the power to advise, admonish, and reprove . . . conscientiously use all means at his command to promote and maintain unity of doctrine and practice in all the districts of the Synod” (XI.B.3); and

Whereas, Synod’s Constitution expressly confers upon the District Presidents the duty “to exercise supervision over” their district’s ministers and to “visit and . . . hold investigations in the congregations” (XII.7), including the District Presidents being empowered “to suspend from membership” their district’s ministers (XII.8); and

Whereas, Prior to the year 2016 and CCM Op. 16-2791, numerous CCM opinions [to wit Ag. 1970, Op. 15-2750, 13-2669, 10-2581, 03-2354, and 03-2338, A and C] interpreted the President of Synod’s scope of ecclesiastical supervision not to include supervision over a district’s individual members and congregations as expressed in Article XII.7, 8; and

Whereas, C. F. W. Walther, the first President of The Lutheran Church—Missouri Synod said that “We have merely the power to advise one another, that we have only the power of the Word and of convincing” (1848 Presidential address to the Synod) [See Article XI B 4 below in the third resolve]; and

Whereas, The Bylaws of the Synod define ecclesiastical supervision as including “…visitation, evangelical encouragement and support, care, protection, counsel, advice, admonition, and when necessary, appropriate disciplinary measures…” (LCMS Bylaw 1.2.1 (i)); therefore be it

*Resolved*, That it is this assembly’s formal declaration that such supervision should take place in relationship between the supervisor and the supervised, as close to the supervised as possible, and not carried out by a centralized authority; and be it further

*Resolved*, That it is this assembly’s formal declaration that this was and is the intent of the Constitution of the Synod; and be it further

*Resolved*, That, for the sake of clarification, **this body** memorializes the Synod in Convention that Article XI of the Constitution of The Lutheran Church—Missouri Synod be amended as follows:

**Article XI Rights and Duties of Officers**

**A. In General**

1. The officers of the Synod must assume only such rights as have been expressly conferred upon them by the Synod, and in everything pertaining to their rights and the performance of their duties they are responsible to the Synod.
2. The Synod at all times has the right to call its officers to account and, if circumstances require it, to remove them from office in accordance with Christian procedure.
3. The Synod reserves the right to abolish any office it has established.
4. Conventions of the Synod and of the districts have the right, in extraordinary cases, to elect a chairman other than the regular presiding officer.

**B. Duties of the President**

1. The President has the ecclesiastical supervision as limited in XI B 2 regarding the doctrine and the administration of
	1. All officers of the Corporate Synod;
	2. All such individual members of the Synod as are employed by the Corporate Synod;
	3. The individual assembled corporate districts of the Synod in convention and through the ecclesiastical supervision of the district president when not in convention;
	4. All district presidents.

2. The President shall have no ecclesiastical supervision over individual and congregational members of the Synod except as listed in XI B 1 a - d and shall have the power to exercise disciplinary, suspension, and expulsion provisions only of district presidents (Article XI B 1 d).

3. The President has the administrative supervision of all such as are employed by Corporate Synod.

~~2~~.4. It is the President’s duty to see to it that all the aforementioned act in accordance with the Synod’s Constitution, to admonish all who in any way depart from it, and, if such admonition is not heeded, to report such cases to the Synod.

~~3.~~5. The President has and always shall have and be limited to the power to advise, admonish, and reprove. He shall conscientiously use ~~all~~ these means ~~at his command~~ to promote and maintain unity of doctrine and practice in ~~all the districts of~~ the Synod. Such means and authority shall be limited to those rights and duties specifically laid out in this article (XI A, B).

4.6. The President shall see to it that the resolutions of the Synod are carried out.

~~5~~.7. When the Synod meets in convention the President shall give a report of his administration. He shall conduct the sessions of the convention so that all things are done in a Christian manner and in accord with the Constitution and Bylaws of the Synod.

~~6~~.8. It is the duty of the President, or an officer of the Synod appointed by the President, to be present at the meetings of the districts, to advise them, and to report at the next session of the Synod.

7.9. The President shall perform all additional duties assigned to him by the Bylaws or by special resolution of the Synod in convention, provided that such duties do not conflict with other provisions of the Constitution.

~~8.~~10. When matters arise between meetings of the Synod in convention which are of such a nature that action thereon cannot be delayed until the next convention, the President is authorized to submit them to a written vote of the member congregations of the Synod only after full and complete information regarding the matter has been sent to member congregations by presidential letter and has been published in an official periodical of the Synod. If such matters are related to the business affairs of the Synod, such a vote shall be conducted only after the President has consulted with the synodical Board of Directors. In all cases at least one-fourth of the member congregations must register their vote.

And be it further

*Resolved*, That when the amendment process is complete, **this body** memorializes the Synod in Convention that the Bylaws of the Synod regarding ecclesiastical supervision (Bylaws 2.14-2.17) be returned to the wording of the 2013 *Handbook* of the Synod to bring the Bylaws into harmony with this Constitutional amendment (Bylaw 3.9.4.2 b); and be it finally

*Resolved*, That **this body** memorialize the Synod in convention with this resolution.