

CONTROVERSY IN COLORADO

A Look Into The Case Of James F. Koch

Senior Church History 1985
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May 15, 1985

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Introduction

The material for this paper is found almost solely in letters and correspondence which transpired during the course of the controversy. These documents are enumerated in Appendix 3. Where quotations have been made from these documents, it is so noted in the text. I refrained from the use of other sources, even though they may have proven to be primary ones, because the letters gave a unique insight as to the feelings and position of those involved.

CONTROVERSY IN COLORADO

The purpose of this paper is to outline and evaluate a controversy which occurred during the early 1970's involving a WELS pastor and his interpretation of the Third Use of the Law. In May, 1972, Pastor James F. Koch of Colorado Springs, Colorado was suspended from fellowship with the Wisconsin Evangelical Lutheran Synod. Was the protest which led to his suspension a justifiable protest? Did the synod and district officials act in a proper manner, both Scripturally and constitutionally, in handling the situation? Was the suspension of Pastor Koch warranted? These are the questions we will address in the following pages.

The story of Pastor James Koch is set against the background of an earlier controversy involving another WELS pastor in Colorado. In 1965 the synod in convention was asked in a memorial from Pastor Herold A. Schulz of Golden, Colorado to investigate his charge "that the Kindergarten Manual for Lutheran Schools and the Teacher's Manual published by authority of the Board of Education, Wisconsin Synod, emphasize the third use of the Law contrary to the Scriptures and the Lutheran Confessions." Pastor Schulz further requested that all be urged to study the use of the Law, especially as a guide, and that the Conference of Presidents draw up guidelines for that study. This memorial was not acted upon by the synod convention, but was placed into the hands of the Conference of Presidents for resolution. Their report came to the synod convention of 1967, stating that the charge made by Pastor Schulz could not be upheld. This, however, did not satisfy Pastor Schulz, and he stood behind his charge of false doctrine.

At the Nebraska District Convention of 1968 President Gerald Free reported that Pastor Herold Schulz would not retract his charge, and "was suspended from the synodical fellowship on December 5, 1967." Pastor Schulz appealed the suspension to the District Convention that year, and a Committee of Review was established. That committee reported to the Nebraska District Convention of 1970 that the suspension had been upheld. Pastor Schulz, because he had not accepted the synod's evaluation of his charges and because he continued to charge the synod with false doctrine, had placed himself outside the synodical fellowship.

After the whole incident had been reported to and again upheld by the WELS convention of 1971, Pastor James F. Koch entered the picture. Pastor Koch, a 1965 graduate of Wisconsin Lutheran Seminary, had served a parish in Las Animas, Colorado, before accepting the call to Mt. Olive Lutheran Church of Colorado Springs in 1970. On August 22, 1971 a letter was distributed to the members of Mt. Olive, informing them that their pastor, Rev. James F. Koch, had lodged a formal protest against the suspension of Rev. Herold Schulz of Golden, Colorado. The letter also supplied the members of the congregation with the words of Pastor Koch's protest:

For the sake of my conscience which is bound only by God's Word I am compelled to enter a state of protest against the unscriptural suspension of Rev. Herold Schulz of Golden, Colorado, by the Nebraska District Praesidium on December 4, 1967 and against the unscriptural upholding of that suspension by the Nebraska District Convention during July, 1970, and against the unscriptural unholding of that suspension by the delegates to the 41st

Biennial Convention of the Wisconsin Synod on August 10, 1971. I will remain in this state of protest until Pastor Schulz's teaching of the Third Use of the Law is clearly, exactly, and precisely laid down and refuted from the Scriptures and the Lutheran Confessions.

This letter was signed not by Pastor Koch, but by the president of the congregation. Besides relaying the information about Pastor Koch's protest against the Wisconsin Synod it also invited them to an informational meeting of the congregation, in which they would be further appraised of the situation. This letter was the beginning of a situation which made it difficult for the officials of the Nebraska District to deal with the case. The council of Mt. Olive passed a resolution that all letters and documents dealing with the protest be duplicated for distribution to the members of the congregation, and that any meetings between Pastor Koch and the District officials be attended by the members of the church council. From the start it was, to say the least, a sticky situation. The visiting elder of the Colorado Conference could not meet one on one with Pastor Koch to try to iron out what started out as a personal matter, nor could any other District officials.

Of course, they did try. A meeting was set up between the district president, the two vice presidents, the visiting elder and Pastor Koch for August 26, 1971. The church council, however, decided to invite the whole congregation to be present in keeping with the resolution that Pastor Koch not meet alone with the officials. This was unknown to the district officials and they were surprised to find the crowd when they arrived. The controversy no longer involved only Pastor Koch and his protest, but all of Mt. Olive

congregation.

Pastor Koch defended his protest that the suspension of Pastor Schulz and the upholding of that protest were unscriptural solely on the basis that no Scripture passages had been introduced into the letter informing Pastor Schulz of his suspension. His real concern, however, was not so simple. In a letter to the Commission on Doctrinal Matters of the Synod, dated Sept. 26, 1971, Pastor Koch said, "I firmly believe that there is absolutely, positively no difference between Pastor Schulz and the Wisconsin Synod on the truth: 'Is there a Third Use of the Law?'...However, a controversy exists between Pastor Schulz and the Wisconsin Synod within the area of the Third Use of the Law." The difference was that Pastor Schulz had maintained that the Third Use of the Law was not as a guide for the new man, but to keep the Christian's old Adam in check.

Pastor Koch felt that his protest could be settled only if the synod would examine Pastor Schulz's stand and refute it on the basis of Scripture. This caused a problem in that Pastor Schulz's claim was seen as already having been addressed in previous years, and Pastor Koch's protest was directed against the suspension. From the start Pastor Koch made it clear that the matter was to be settled only on his own terms and by meeting his demands.

Pastor Koch and his congregation therefore wrote the letter of Sept. 26, 1971 to the Commission on Doctrinal Matters, and requested that this commission "set down in theses and antitheses the true scriptural and confessional teaching regarding the main point of the controversy, namely, the question: What is the relation of the Law

and Gospel to the good works of the believers." This request revealed a great deal about Pastor Koch's position in the whole controversy. In his protest he had charged the synod with unscriptural action in suspending Pastor Schulz. For Pastor Koch it would have seemed that the main point was whether or not the synod had followed Scriptural guidelines in their actions. But in this letter Pastor Koch showed that he still saw as the major issue the point which had indeed been covered in the Schulz controversy, namely, the Third Use of the Law.

The congregation's request was denied by the Commission on Doctrinal Matters on the basis that under the prevailing circumstances the commission would be overstepping their constitutional function. President Naumann, on Nov. 12, 1971, wrote to the congregation that the Districts have the right and duty to exercise supervision over doctrine and practice of members of their Districts. Therefore, a request such as the one Pastor Koch had sent would have to have come through the proper channels, namely, "through the responsible officers of the Districts or with the express consent and approval of the District officers."

Things took a turn for the worse on Dec. 11, 1971, when Pastor Koch wrote a letter to Rev. Larry Ellenberger, the Visiting Elder of the Colorado Conference. After the Commission on Doctrinal Matters had turned down Koch's request to write on the relation of the Law and Gospel to the good works of believers Pastor Koch asked the District Praesidium to make the request. When the Praesidium was slow in replying (because after considering the request they had

further questions to be answered among themselves) Pastor Koch wrote to Pastor Ellenberger with several more requests. The first was that Mt. Olive congregation be informed as to what had transpired at the meeting of the Praesidium. He added, "This matter will be discussed before I present the material on whether or not Pastor Schulz proved from the Scriptures that portions of the Kindergarten and Teachers Manuals are false doctrine."

The second request was of a more personal nature. At the initial meeting between the Praesidium and Pastor Koch on August 26, 1971 (the meeting at which the Praesidium were surprised to find the whole congregation in attendance), Pastor Ellenberger said (according to Pastor Koch's letter) that Pastor Koch "did not have the right to take sides in doctrinal controversy." Because of this Pastor Koch's second request was: "I expect a public, written apology from you at next Tuesday's meeting regarding your statement...in which you would rob me and every Christian of the God-given right, obligation, and privilege to be men of Berea in every spiritual and doctrinal matter which concerns our soul's blood-bought salvation, and thereby return us to the hellish theology of the Pope."

From this time on, Pastor Koch's dealings with all the members of the District Praesidium took on the flavor of mudslinging and arguments about words, rather than sticking to the issue which was the main concern. Pastor Ellenberger was quick to reply (two days later, December 13). He gave a complete answer as to why Pastor Koch had not heard from the Praesidium earlier, showing (by means of

the reasons for the delay) that Pastor Koch's concern that his case was being put onto the back burner was unwarranted.

More importantly, Pastor Ellenberger replied to the request for a public, written apology about his statement at the August 26 meeting: "If my memory serves me correctly, the statement was made in the context that you did not have the right to overstep proper procedure in taking sides in doctrinal controversy." What he meant was that before Pastor Koch first presented his protest to the synod convention on August 10, 1971, he did not once discuss the fact that he would do so with the visiting elder or any other member of the District Praesidium. Whether or not it was improper for Pastor Koch to make his protest without telling the District officials beforehand is of little consequence. The problem was that the whole situation had degenerated into a mud-slinging contest and the points which were really at issue were becoming terribly clouded.

Pastor Ellenberger showed that this was his feeling when he told Pastor Koch that he could have demanded from Pastor Koch a "public, written apology" for inaccurate statements. He could have required one for the deception involved in Pastor Koch's assurance that only the church council was to have been present at the August 26 meeting. "But what purpose would such demands have served for the Kingdom of God?," Pastor Ellenberger said. "The tone of your letter and the attitude displayed certainly stand questionable on the basis of Galatians 5:22-23 (the fruit of the Spirit)...Your letter of December 11th must surely cause all involved great sadness and some rethinking of this case."

In keeping with the resolution of the Mt. Olive church council, all correspondence was being prepared for distribution to the members of the congregation. Whenever a letter concerning Pastor Koch's case came into or left the congregation it was copied, usually with additional comments and explanations by Pastor Koch, and handed out to the members. For example, the letter of December 13 from Pastor Ellenberger (quoted from in the previous paragraphs) reached the hands of the congregation members in the following form:

On December 1st a letter was sent to President Free with carbon copies to the other members of the Praesidium and myself regarding a matter of further consideration in connection with the request. Another letter was also sent to all members of the Praesidium and myself asking for their reaction to this further consideration. (A FEW QUESTIONS MUST BE ASKED HERE: WHO SENT THE LETTER OF DECEMBER 1st, WHAT WAS THE CONTENT OF THIS LETTER AND THE OTHER ONE REFERRED TO, WHAT WERE THE RESPONSES TO THIS FURTHER CONSIDERATION?) On December 2nd, I responded to this consideration.

The underlining and the comments in parentheses and capital letters are from Pastor Koch. In every letter he demanded a precision which was almost unreasonable, as he picked apart every word that was said. At the same time he gave a great deal of information about his own personal feelings. Later in the same letter we find Pastor Ellenberger's explanation of his statement about "taking sides in doctrinal controversy":

If my memory serves me correctly, the statement was made in the context that you did not have the right to overstep proper procedure in taking sides in doctrinal controversy. (EITHER WAY, THE ABOVE STATEMENT ON THE PART OF THE VISITING ELDER WOULD ROB US OF OUR GOD-GIVEN RIGHT "TO TRY THE SPIRITS." WHAT "PROPER PROCEDURE" DOES GOD'S WORD, THE SYNOD

CONSTITUTION, THE DISTRICT CONSTITUTION LAY DOWN
"IN TAKING SIDES IN DOCTRINAL CONTROVERSY"?
NONE! GOD SIMPLY TELLS US TO BE ALERT, AWAKE,
BEWARE OF THOSE THAT COME IN SHEEP'S CLOTHING!)

It soon becomes clear that Pastor Koch felt a certain amount of animosity brewing between himself and those with whom he was dealing. While what he said may very well have been true, it was highly polemic, and perhaps needlessly. As one reads the letters which come from the District officials from this time onward one senses a level of frustration, as well as the sadness which Pastor Ellenberger mentioned.

The month of January, 1972 brought with it a great deal of action on the whole matter. Pastor Ellenberger was invited by Mt. Olive congregation to attend a congregational meeting and address certain questions. He was asked, 1) to provide the congregation proof that Pastor James F. Koch does indeed charge the Synod and the Manuals with false doctrine with regard to the Third use of the Law, and 2) to defend, from Scripture, the following two statements from the Teacher's Manual:

1. "If we are not ashamed of the Gospel of Jesus Christ, Jesus, in His love, will give unto us forgiveness of sins, life and salvation." Ref: Teacher's Manual, p. 210.
2. "Doing My Father's Work--His work was to show people the way to heaven." Ref: Teacher's Manual, p. 222.

The meeting which took place on January 14, 1972 proved to be the last one between Pastor Koch and Pastor Ellenberger. At this meeting Pastor Ellenberger presented his answers to the congregation's questions in reverse order. Seven years earlier Pastor Herold Schulz had charged the synod with false doctrine

concerning the same references from the Teacher's Manual For Christian Schools, and now Pastor Koch was finally to receive his answer to what he viewed as the main point of the controversy.

Pastor Ellenberger showed the statements from the Teacher's Manual to be understandable according to Scripture, even if the language could have been more precise (ref. #1) or if the statement was not complete (ref. #2). In both cases, however, a person would be wrong in charging the synod with false doctrine. In answer to the first question of the congregation Pastor Ellenberger pointed out that Pastor Koch had indeed charged the synod with false doctrine, and reminded the congregation that their pastor had been, since his protest the previous August, and still was, under Christian discipline.

In reply, Pastor Koch presented a paper which he had prepared, entitled "God's Word or Man's Word?". In this paper he attempted to prove that the two statements from the Teacher's Manual were indeed contrary to God's Word. While he showed convincingly the worst way in which the statements could be understood ("It denies the Truth by telling us that we must cleanse ourselves of the sin of ashamedness before Christ will grant us forgiveness of sins, life, and salvation ...the Gospel itself has become Law."), he refused to acknowledge that the statements could possibly be understood to be in harmony with Scripture. He said, "Anyone who would accept and/or defend the statement from the MANUAL: 'If we are not ashamed, etc.' has fallen into, knowingly or unknowingly, the error of synergism."

Less than a week later, on January 20, 1972, Pastor Ellenberger

wrote to Pastor Koch and asked him quite pointedly, "Do you or do you not accept the explanation I gave on the basis of Scripture with regard to the two statements involved?" When Pastor Koch refused to accept the explanation as either satisfactory or Scripturally sound, Pastor Ellenberger handed the case over to the Nebraska District Praesidium, stating in a letter to them dated January 27, 1972, "All of my efforts have proven unsuccessful. I am convinced that further efforts on my part would prove in vain."

Now that the case was in the hands of the District Praesidium, Pastor Koch sent copies of Pastor Ellenberger's presentation of Jan. 14, along with his own paper, "God's Word or Man's Word" to the members of the Praesidium, in the hope that they would have the proper information in evaluating the case. In the same mailing, however, was a letter in which Pastor Koch spoke poorly of the way in which Pastor Ellenberger had handled the situation, and the mailing went out to all the pastors of the Colorado Conference. For this President Gerald Free reprimanded Pastor Koch in a letter of Feb. 7, 1972: "It is evident that you should have first spoken to Pastor L. Ellenberger concerning the charges made. Your circularizing of these letters is truly a very unbrotherly action."

Right away pastor Koch was on the defensive. He wrote back on Feb. 10, 1972, "I do wish that when someone writes to me on this matter that he would refrain from writing in vain generalities! ...I have not, and don't intend to make any 'charges' against Pastor L. Ellenberger." The defensive then quickly turned to the offensive. He lashed out at Pastor Free over the way he had handled

himself and the controversy up to that point. While Pastor Koch may not have said anything that of itself was untrue, one can sense in reading his letters the intense zeal and almost anger from which his words arose. There is a sense of urgency, the kind which one would expect from someone who felt he was being backed into a corner.

Neither Pastor Ellenberger nor the District Praesidium had done such a thing. But Pastor Koch had put himself into a curious situation of both having to prove a charge he had made and having to disprove the words of those whom he had charged, since he had demanded that they prove first that they were right in the matters with which he had charged them.

When the case was placed into the hands of the District Praesidium, they immediately undertook the task of attempting to satisfy Pastor Koch's demand for an answer to the question: "What is the relationship of the Law and the Gospel to the good works of believers?" This was the question which Pastor Koch had hoped would answer his charges against the synod. He had asked five months earlier that the Commission on Doctrinal matters set down, in theses and antitheses, the answer to this question. When they declined on the basis of proper order, the District Praesidium submitted to them the same request. Again they considered the task, and determined that it fell outside of their constitutional function. Finally, the Praesidium itself decided to make the presentation on their own, and they did so on March 13, 1972.

In their presentation the Praesidium stated briefly the three uses of the Law along with the motivational function of the Gospel

in relation to the good works of believers. Also they presented antitheses, rejecting certain false teachings. The first of these was that "the law is not needed in the life of the Christian as a guide." Antitheses numbers five and six were of a similar nature: "5. We reject the claim that only the Gospel should be taught to the Christian. 6. We reject the teaching that the Holy Ghost does not instruct the Christian by the Law."

Pastor Koch and his congregation responded almost a month later with a seven page (single spaced) rebuttal to the Praesidium's presentation. The rebuttal was entitled, "A Scriptural and Confessional Reaction to the Nebraska District Praesidium's March 13, 1972 Presentation: 'What Is the Relationship of the law and the Gospel to the Good Works of the Believers?'" In this paper Pastor Koch raised five questions:

I. Why is the Holy Spirit, who effects sanctification (narrow sense) by Word and Sacraments, completely omitted in this presentation in the doctrine of Good Works?

II. Why is the Gospel, which solely regenerates and renews us, almost entirely omitted from the doctrine of Good Works?

III. Why wasn't the major point made that when "the Holy Spirit employs the law so as to teach the regenerate from it" this teaching of the Law rightly belongs to the coercion of the Law?

IV. If the law in its Third use is a guide for the Christian to teach him "what will please or displease His heavenly Father", then, can the law in this sense (guide) be urged "upon the unbelieving and impenitent." In short: Is the Third use of the Law necessary for unbelievers?

V. Why does the Praesidium in Thesis 4 (3) quote from the 3rd paragraph of the VI Article of the Formula of Concord to substantiate their

teaching of the Third Use of the law, when the 3rd paragraph of Article VI is part of the Introduction and thus part of the dissent over against which our Lutheran forefathers confessed the true doctrine regarding the Third Use of the Law?

As in other cases, Pastor Koch pulled apart the words which the Praesidium had written. They had not intended to write an exhaustive confessional statement, but a brief answer to a question. Pastor Koch, however, went so far as to accuse the Praesidium of false doctrine for their omission of certain points, and especially for quoting from the 3rd paragraph of the sixth Article of the Formula of Concord (question V above). This paragraph lists the two dissenting sides in a controversy which had arisen and had prompted the writing of Article VI. The Praesidium stood by their use of the quotation on the basis that it did indeed summarize the scriptural teaching on the third use of the Law.

By this time the matter was coming to a head. At the March 13 meeting, Pastor Koch and some members also demanded a specific answer to the question, "What is Pastor Koch's sin?" If he was under "Christian Discipline," in what way had he sinned? The Praesidium answered on April 20, 1972, citing 1) Pastor Koch's charge that the synod had sinned in their suspension of Herold Schulz, 2) that he had sinned "by continually advocating and defending Pastor Schulz's error, 3) his failure "to accept the Scriptural truths presented to you by the Visiting Elder and the Praesidium," 4) his "holding of an unscriptural position regarding the doctrine of the Law," 5) his deception in telling the Praesidium that on August 26, 1971, only the church council was to be present

at their meeting, "while you knew very well that you and the Council had invited the whole membership of the congregation to attend."

The next point cited as sin gets right to the heart of the matter:

It is a lack of Christian love, also a sin against the 8th Commandment, when you refuse to put the best construction on the explanation of the Nebraska District for not including more Scripture passages in its letter of suspension of Pastor H. A. Schulz and when you insist on reading false doctrine into the "Teacher's Manual for Christian Schools" in spite of being shown from the context and the rest of the book that you are wrong. (I Cor. 13:5).

Common decency would demand that, if you want to hold to your errors and condemn the Scriptural position of the Wisconsin Evangelical Lutheran Synod, that you remove yourself from Mt. Olive Ev. Lutheran Church in Colorado Springs, which is a member of the Wisconsin Evangelical Lutheran Synod, and from the membership in the Wisconsin Evangelical Lutheran Synod.

Pastor Koch did not accept the Praesidium's presentation, but instead wrote a scathing letter, dated April 26, 1972, denouncing them for only now, at this late date, telling him just what he had done wrong. He concluded by saying, "It appears that my membership in the Wisconsin Synod is in your hands since I do not intend to resign from the Wisconsin Synod!"

On May 14, 1972, Pastor James F. Koch was suspended from fellowship in the Wisconsin Synod. When, on July 10, 1972, the voters assembly of Mt. Olive decided to retain Pastor Koch as their pastor, the congregation also was suspended from fellowship with the synod. Pastor Koch appealed his suspension, but it was upheld by a District Committee of Review.

In considering the whole situation with Pastor Koch, one has to

remember that the people involved operated along a number of different lines of thought. There was 1) the question of whether or not the suspension of Herold Schulz had been unscriptural. There was 2) the question of whether or not the Wisconsin Synod was involved in false doctrine with reference to the Teacher's Manual. There was 3) the question about the relation of the Law and Gospel to the good works of believers. Each of these questions was considered during the course of the controversy.

When Pastor Koch first lodged his protest the first question was raised, along with his desire to have the synod try to convince him that Pastor Schulz had been in error with regard to his teaching on the third use of the Law. As the Nebraska District officials attempted to clarify the question and find out what would satisfy Pastor Koch, he brought up the third question. When an answer was slow in coming, Pastor Koch raised the second question, which was answered by Pastor Ellenberger on Jan. 14, 1972. Still unsatisfied, Pastor Koch resubmitted his third question, this time to the District Praesidium. Their answer, again, was unacceptable.

Where did Pastor Koch really stand in the controversy? What exactly was his question? What did he hope to gain by his protest? The way the protest was worded, it seems that nothing short of the reinstatement of fellowship with Pastor Schulz would have satisfied Pastor Koch. The other questions raised as time went by showed this to be true. Pastor Koch was unable to prove that the synod was guilty of false doctrine, yet he would not accept their statements and explanations. On the other hand, the District Officials were

hard pressed to prove that what Pastor Koch said in any of his letters or papers was contrary to Scripture, nor did they need to, because by continuing to stand by his protest Pastor Koch showed that he did not agree with the Wisconsin Synod.

In the end, Pastor Koch's real concern seems to have been, "How was Pastor Schulz wrong?" Perhaps the question was not answered definitively during the Schulz case, but it was obvious that there was disagreement when he continued to charge the synod with false doctrine. One might then ask, "How was Pastor Koch wrong?" The single point at which Pastor Koch was shown to be at variance with Scripture (and not very convincingly) concerned the use of the Law as a guide for the Christian. On all other points Pastor Koch maintained and proved that he was abiding by the Scriptures. Yet he showed that there was disagreement by continuing to charge the synod with false doctrine. When such disagreement exists and cannot be resolved, fellowship no longer exists, and Pastor Koch's suspension was warranted.

The Visiting Elder and the Nebraska District Praesidium made every effort to deal with Pastor Koch's protest. They tried to meet with him alone, but were not allowed. They answered the questions which he raised, but their answers were rejected. They gave Pastor Koch a detailed explanation of where he had erred, but to no avail.

One must come away with a sad feeling toward the whole controversy. On the surface it seemed like such a simple thing. Yet the matter became more and more entangled in questions and charges. Did it have to be? Could it have gone the other way?

These questions we cannot now answer. When Christians become embroiled in such affairs, the outcome can be, as in this case it was, unfortunate, to say the least.

APPENDIX 1

Notice of Suspension of Pastor Koch.

In this letter Pastor Free details the reasons for which Pastor Koch was finally suspended.

NOTICE OF SUSPENSION

of

Pastor James F. Koch
Colorado Springs, Colorado
From the Synodical Fellowship

WHEREAS you, Pastor James F. Koch, lodged a formal protest against the Nebraska District Praesidium for the "unscriptural suspension of Rev. Herold Schulz on December 4, 1967," and against the delegates to the Nebraska District Convention in July 1970, and the delegates to the Wisconsin Evangelical Lutheran Synod at the 41st Biennial Convention on August 10, 1971 for "the unscriptural upholding" of that suspension, and have not withdrawn the protest nor given scriptural proof of the charges in the protest, and

WHEREAS you have persistently advocated and defended Pastor Schulz's error regarding the third use of the Law, proving yourself thereby to be a false teacher (Romans 16:17, Matthew 7:15-16), and

WHEREAS you reject the teaching of the Word of God and of the Lutheran Confessions that the Law serves as a guide to the Christian (who in this life has the Old Adam as well as the New Man) pointing out to him the good works pleasing to God (Deuteronomy 11:32; Psalm 119:32; Matthew 5-7 -- Sermon on the Mount; Evangelical admonitions of the Apostles: Ephesians 5:1 ff.; Romans 12:1 ff.; I Thessalonians 4:1 ff.; I Peter 2:1 ff.; I John 5:21; James 2 and 3; Triglot 963, 3-4; 965, 12; 969, 20; 805, 1-2), and

WHEREAS you prove yourself to be outside the Lutheran Confessions by maintaining that paragraph three(3) of Article VI of the Formula of Concord is not scriptural doctrine, but that it is a false position held by a dissenting group over against the scriptural doctrine presented in the remaining paragraphs of Article VI, and

WHEREAS you have charged the Synod erroneously with false doctrine in regard to statements on pages 210 and 222 of the "Teacher's Manual - Bible Stories" (see your paper "God's Word or Man's Word") and have not withdrawn this your charge, and

WHEREAS you have sinned by propagating your false doctrine among the members of Mount Olive Evangelical Lutheran Church, Colorado Springs, Colorado, thus causing divisions and spiritual unrest (Jeremiah 23:31; Jeremiah 23:2, Micah 3:5, John 8:31-32, Romans 16:17, Galatians 5:9, "lie by God's name"), and

WHEREAS you have refused to accept scriptural correction of your errors by those entrusted with the responsibility for doctrine and practice in the Colorado Conference and in the Nebraska District of the Wisconsin Evangelical Lutheran Synod (Romans 16:17),

THEREFORE, I, Pastor Gerald E. Free, President of the Nebraska District, Wisconsin Evangelical Lutheran Synod, with the concurrence of the two Vice-Presidents of the Nebraska District, have no other recourse on the basis of the Holy Scriptures but to suspend you, Pastor James F. Koch, from the synodical fellowship (cf. Article VI, section 1, paragraph f).

President	<u>Gerald E. Free</u>
1st Vice-President	<u>Henry G. Meyer</u>
2nd Vice-President	<u>Leo C. Gruendeman</u>

APPENDIX 2

Letter from Pastor Koch.

In this letter Pastor Koch gives his reactions to each of the points raised in the suspension letter, as well as his feelings on the controversy as a whole.

To Those with Christian Concern
Regarding the Suspension of
Mt. Olive and/or Rev. Koch:

Thank you so very kindly for your letter enquiring about the suspension of Mt. Olive and or myself!

Since several individuals have enquired about this matter I decided to write a form letter and then also a brief personal note. All the other materials which have been duplicated over this past year regarding this case are being mailed to you under third class mail. Read over these materials carefully and several times. Compare the teachings of those who are writing these letters or papers with the clear Word of God! Then, decide for yourselves, as is your God-given right, are these suspensions based on Scripture? are the errors(sin) really errors according to God's Word or men's emotions?

You will find the notice of my suspension in the June 18th issue of the Northwestern on page 210, third column, bottom.

At the Synod Convention last August I registered a formal protest regarding the unscriptural suspension of Rev. Herold Schulz of Golden, Colorado. At the convention I also stated that I would be entering into fellowship with Pastor Schulz. Since I withdrew this latter statement some have enquired if I was pressured to do so. Regarding this latter item, which was added as an addendum to the official minutes of the Convention. Regarding this addendum item regarding the withdrawing of the fellowship statement I want to offer this clarification: Three pastors and one professor talked to me the afternoon of my protest at convention. The three pastors encouraged me to retract my statement of protest and statement of fellowship with Pastor Schulz. The professor, Professor Lawrenz of the Seminary, encouraged me to withdraw my statement of fellowship so that discussions on this matter could be carried on (from the correspondence which you will read you will see that it didn't turn out this way, since Professor Lawrenz refused to get involved.). I saw wisdom in this advice, told him I could withdraw my statement of fellowship, but since my conscience was bound by God's Word I could not withdraw my statement of protest. To this Professor Lawrenz replied: "I have respect for your conscience."

So, actually at the Convention itself no real pressure was put on me to withdraw my two statements. Furthermore, I believe these four individuals came to me on their own and were not asked to do so by some officials.

However, when I returned to Colorado the Visiting Elder of the Colorado Conference lost no time contacting me and setting up a meeting with him and the members of the district presidium. By this time my church council was fully informed on all the events that led up to Pastor Schulz's suspension in 1967, my involvement in his case from 1965 and on, the district and synod dealings in his appeals, and my protest at Synod Convention. The Church Council then suggested that the entire congregation should be and be kept informed in this vital matter, since theirs was the God-given right to try my spirit and the spirit of the officials. This suggestion was followed. All in coming and out going correspondence was duplicated and handed out to all members, the church council attended all meetings with the Visiting Elder and then with the district Presidium, and the congregation was invited to several of these meetings.

Read Pastor Schulz's suspension letter carefully. Note that (1) Pastor Schulz's error is not spelled out; (2) the Scriptures are not alluded to in order to convince Pastor Schulz of his error; (3) the Lutheran Confessions are totally ignored to prove Pastor Schulz's sin.

Throughout the Visiting Elder's and the Presidium's dealings with me, I was put under church discipline August 26, 1971 and found out about it on December 14, 1971, with never once being told what my error was. I was told, however, that I should have assumed I was under church discipline. On March 3(5 hr. meeting-Church Council was present) and March 13(6 hr. meeting-entire congregation was present) the Nebraska District Presidium was asked numerous times: "What is Pastor Koch's sin?" Not once did they answer this question, but hedged and hedged and hedged, and beat around the proverbial bush.

As you read my suspension letter note that (1) my first sin is my PROTEST itself because it contained no Scripture proof. Hence the Presidium is really admitting that they erred in suspending Pastor Schulz, in that his suspension contains no scripture proof. Was not my "no vote" at Synod Convention on the Schulz resolution a "protest" in itself, and my "protest" simply a statement of the reason for my "no vote"? For this I needed Scripture?; (2) I sinned in supporting Pastor Schulz's error. But I ask, What is Pastor Schulz's error?

The Presidium never showed me or anyone the error to be avoided with regard to Pastor Schulz and his teaching, yet now I am guilty of the same error. What error?; (3) I have erred by not accepting the term "guide" in the teaching of the Third Use of the Law. Read the 6th Article of the Formula of Concord and see if the word "guide" is used in our confessions in the 6th Article of the Formula of Concord. It isn't. Yet, now I must accept that word because the District Presidium says I must. This Christian is not about to return to Rome's theology of the Church and submit to man's word and authority. Note Psalm 119:32. The Psalmist is speaking of the "Word"(broad sense) not the "Law" (narrow sense). The word "commandment" is one of many terms employed by the Psalmist for "the Word of God". Yet this same passage is misused to convince me of my "error". Note also the contradiction of terms employed by President Free in speaking of the Third Use of the Law(very narrow sense) and then refers to "Evangelical(Gospel) admonitions of the Apostles." Since when is the Law the Gospel, and the Gospel the Law? The distinction between the Law and the Gospel is a very essential, basic, clear, inspired truth of the Sacred Scriptures, which truth is brought out by Dr. C. F. W. Walther in his book THE PROPER DISTINCTION BETWEEN LAW AND GOSPEL.

(4) You will find sufficient explanation of the controversy over paragraph 3 of the 6th Article of the Formula of Concord. However, to add a few more words of clarification of this point I offer a sample comparison from our confessions of the 6th Article of the F. of C. - The Third Use of the Law of God. In the left column of the enclosed sample comparison you will find the THOROUGH DECLARATION of this article which was written first, and in the right column you will find the Epitome(Summary) of the Thorough Declaration which, of course, was written later than the Thorough Declaration. See where Andreae, who prepared the Epitome of the Thorough Declaration, begins the correct presentation of the Third Use of the Law. He does not start with paragraph three, but with paragraph 4.

(5) The two statements to which Pres. Free refers are; "Teacher's Manual-Bible Stories" page 210: "If we are not ashamed of the Gospel

of Jesus Christ, Jesus, in His love, will give unto us forgiveness of sins, life, and salvation." This statement is plain and simple work-righteousness. Our forgiveness is not based on our not being ashamed of the Gospel, who then would have forgiveness?, but alone on God's grace and Christ's righteousness. And, our obtaining of this forgiveness through faith is due solely to the working of the Holy Spirit through the Gospel, which Paul says "is the POWER of GOD unto salvation" Romans 1:16. Order this Teacher's Manual - Bible Stories from the Board of Parish Education - 3614 West North Avenue - Milwaukee, Wisconsin 53208 - Price \$2.50. Turn to page 210 and note that the above statement has now been changed. Why? The explanation which is given is: "Not because it is false doctrine, but because this statement could be misunderstood!" Turn also to page 222 : "Doing My Father's Work-His work was to show people the way to heaven." Is this the correct meaning of Christ's words to His mother at the age of 12? "Wist ye not that I must be about My Father's business(work)?" With the statement as it appears in the Teacher's Manual has not Christ been relegated to the station of the Old Testament Prophets and the New Testament Christians, namely, preaching Christ as the only way to heaven? To be sure, as our PROPHECY this was Christ's Work, but what is the true meaning of Christ's words to His mother? ^{the statement in M.} If it is, ^{right} then we have robbed the world of its only Savior to whom had been given the work He alone could do - redeeming the world through His sacrificial, atoning, expiatory death on the cross. Note, however, Wisconsin Synod's correct explanation of Christ's work in its Catechism, page 117 "C. THE WORK OF CHRIST 184. What is the work of Christ called?"

The work of Christ is called redemption."

From this we must conclude that we dare not be men of Berea and question the writings of men, but we must be silent, return to the hellish theology of Rome and bow down to the authority of fallible men, or else

(6) In this whereas I am accused of propagating my "false Doctrine" among my members. From this suspension letter can you tell what exactly my error is? Because I believe in being a watchman on the walls of Zion, because I believe in trying the spirits of all men, in both the Missouri and the Wisconsin Synods, I have now sinned by warning my members of these errors of the Presidium's suspension of Pastor Schulz, their erroneous presentation of the Third Use of the Law and the two false statements in the TEACHER'S MANUAL.

(7) "I have refused to accept scriptural correction of my errors" When members of my congregation and I asked the Presidium "What is Pastor Koch's sin(error)?" the Presidium refused to answer. I met with the Presidium March 3rd (Church Council attended) and March 13th (congregation attended) and at the end of these two meetings, which in all lasted 10½ hours, I pointed out to the Presidium that they didn't use one Scripture passage to prove me wrong at either of these meetings. What "scriptural correction" was there for me to accept? There wasn't any!

President Free accuses me of causing divisions. Ask President Free who was causing divisions in my congregation when President Free met secretly with several of my members the evening of June 15th and encouraged them to fight against me. Yet, he can write in a letter that he hoped unity could be restored in Mt. Olive. In another letter, dated August 5, 1972, he encourages members of mine to get others in Mt. Olive to sign a statement denouncing me as pastor of Mt. Olive and to enter a state of protesting fellowship with the majority of the membership. Ask President Free to spell out the scriptural teaching

of the Divine Call and then demonstrate how he has continually interfered in my ministry!

Read through the suspension letter of Mt. Olive. The Visiting Elder of the Colorado Conference or the District Presidium never dealt with Mount Olive Ev. Lutheran Church to show them their "error". What is their "sin"? Respecting the doctrine of the Divine Call and the ministry of their pastor? Note also the complete absence of the Holy Scriptures and the Lutheran Confessions in proving the "error" of Mt. Olive. Yet President Free states: "on the basis of the Holy Scriptures", and then, tells the church to confer the synod's Constitution. Why is it so difficult for a pastor and district president, responsible for doctrine and practice in the Nebraska District, to use the Scriptures and use them "lawfully", but rather quotes so profusely from man's authority, the constitution.

Read all the materials carefully. Please, try my spirit, my teachings, my writings. If you find anything wrong, please, show me from the truth of God's Word where I am wrong. Try President Free's spirit. If you find him to be wrong then write to him and express your concern for the truth as you have learned to know from the Word of God! Feel free to write again if you desire.

With heartfelt thanks for your Christian, brotherly, Spirit-wrought concern in this case!

Yours in the redemptive work
of our beloved Savior,

Rev. James F. Koch, Pastor
Mt. Olive Ev. Lutheran Church

P.S. Our Christian Day School remains open. We inducted our new teachers on September 3, have 27 enrolled in grades K-9 (one less than at this time last year. The church is meeting all of its financial requirements. It is growing spiritually and numerically. I have opened an Independent Lutheran Church in Pueblo, 40 miles to the south. In short, the Lord is blessing us and keeping us, the Lord is making His face to shine upon us and is being gracious unto us, the Lord is lifting His countenance upon us and is granting us that peace which we have alone through Christ's redemptive reconciliation!

APPENDIX 3

Listing of Correspondence.

The following is a list of correspondence which was duplicated for distribution by Pastor Koch and Mt. Olive Lutheran Church, and which formed the basis for this paper.

Listing of Correspondence

1. Aug. 22, 1972 Letter from Mr. Roloand W. Meyer, President of Mt. Olive Ev. Luth. Church to members of the congregation, informing them of Pastor Koch's protest and of congregational meetings.
2. Sept. 26, 1971 Letter from Mt. Olive to the WELS Commission on Doctrinal Matters, requesting an answer to the question: "What is the Relation of the Law and Gospel to the good works of the believers?".
3. Oct. 31, 1971 Letter from the WELS Commission on Doctrinal Matters denying the request of Mt. Olive.
4. Nov. 12, 1971 Letter from Synod President Oscar Naumann explaining the Constitutional function of the Commission.
5. Dec. 11, 1971 Letter from Mt. Olive to Pastor Larry Ellenberger.
6. Dec. 13, 1971 Letter from Pastor Ellenberger to Pastor Koch, with personal comments by Pastor Koch.
7. Dec. 29, 1971 Letter from District President Gerald Free to Pastor Koch, acknowledging a previous letter.
8. Jan. 6, 1972 Letter from Pastor Ellenberger to Mr. Roland Meyer, requesting Jan. 14 meeting.
9. Jan. 8, 1972 Letter from Mt. Olive to Pastor Ellenberger accepting the Jan. 14 meeting.
10. Jan. 14, 1972 Presentation by Pastor Elleberger to Mt. Olive defending the Teacher's Manual.
11. Jan. 14, 1972 Presentation by Pastor Koch, entitled "God's Word or Man's Word?".
12. Jan. 20, 1972 Letter from Pastor Ellenberger to Pastor Koch asking for his reaction to Jan. 14 presentation.
13. Jan. 21, 1972 Letter from Pastor Free to Pastor Koch.
14. Jan. 24, 1972 Letter from Pastor Koch to Pastor Ellenberger, rejecting many points in Pastor Ellenberger's Jan. 14 presentation.
15. Jan. 16, 1972 Article from The Northwestern Lutheran (Prof. Gerlach) entitled "The Connection between the Gospel and Conversion."
16. Jan. 27, 1972 Letter from Pastor Ellenberger to the Neb. Dist. Praesidium, placing the Koch matter into their hands.

17. Jan. 27, 1972 Letter from Pastor Ellenberger to Pastor Koch, informing him that the matter now rested in the hands of the Praesidium.
18. Jan. 31, 1972 Letter from Pastor Koch to Pastor Ellenberger, acknowledging and denouncing his handing over of the case.
19. Jan. 28, 1972 Letter from Pastor Free to Pastor Koch, urging a God-pleasing solution to the situation.
20. Jan. 31, 1972 Letter from Pastor Koch to Dist. Praesidium, forwarding pertinent documents.
21. Jan. 31, 1972 Letter from Pastor Koch to Pastors of the Colorado Conference, explaining the situation.
22. Feb. 4, 1972 Letter from Commission on Doctrinal Matters to Pastor Free, advising him that the Commission had denied the request to write the paper on the Third Use.
23. Feb. 7, 1972 Letter from Pastor Free to Mt. Olive relaying the denial of the Commission.
24. Feb. 6, 1972 Letter from Koch to Pastor Ellenberger, informing him that Pastor Koch would not receive Holy Communion at an upcoming conference because of the offense Pastor Ellenberger had given to Mt. Olive.
25. Feb. 6, 1972 Letter from Pastor Ellenberger to Pastor Koch asking him to refrain from taking Communion at the conference because of the offense he had caused.
26. Feb. 7, 1972 Letter from Pastor Free to Pastor Koch, expressing disappointment over his dissemination of literature.
27. Feb. 7, 1972 Letter from Pastor Free to the Praesidium members, attempting to set up a meeting between them and Pastor Koch.
28. Feb. 10, 1972 Letter from Pastor Koch to Pastor Free, defending himself concerning his publicizing of the matter.
29. Feb. 10, 1972 Letter from Pastor Koch to Pastor Ellenberger, final correspondence between them.
30. Feb. 10, 1972 Letter from Pastor Free to Pastor Koch acknowledging a previous letter.
31. Feb. 17, 1972 Letter from Pastor Koch to Pastor Free, stating that there were other voices opposing Pastor Schulz's suspension in Aug., 1971.
32. Feb. 14, 1972 Letter from Mt. Olive Church Council to District Praesidium urging Pastor Free to disqualify himself from dealing with Pastor Koch.

33. Feb. 14, 1972 Letter from anonymous member of Mt. Olive to Pastor Free, supporting Pastor Koch.
34. March 3, 1972 Chronological Outline (prepared by Pastor Koch) of important dates since his Aug., 1971 protest.
35. March 8, 1972 Letter from Mt. Olive to Pastor Free, urging answers to specific questions.
36. March 13, 1972 Presentation by District Praesidium to Mt. Olive entitled, "What is the Relationship of the Law and the Gospel to the Good Works of the Believers?".
37. March 16, 1972 Letter from Pastor Free to Dr. Warren Hamula, chairman of the Mt. Olive church council, requesting reaction to March 13 presentation.
38. March 17, 1972 Letter from Pastor Free to Pastor Koch, explaining why he had written to Dr. Hamula.
39. March 24, 1972 Letter from Dr. Hamula to Pastor Free, requesting clarification of certain points.
40. March 29, 1972 Letter from Pastor Free to Mt. Olive, again requesting reaction to March 13 presentation.
41. April 4, 1972 Letter from pastor Koch to Pastor Free, requesting late April or early May meeting.
42. April 14, 1972 Letter from Pastor Koch to Pastor Free, expressing dismay at President Free's insistence at an earlier meeting.
43. April 9, 1972 Presentation by Pastor Koch: "A Scriptural and Confessional Reaction to the Nebraska District Praesidium's March 13, 1972 Presentation."
44. April 23, 1972 Letter from Pastor Koch and Mt. Olive Church Council to Members of Mt. Olive, informing them that certain of the questions under consideration had never been discussed during the Schulz case.
45. April 20, 1972 Letter from Pastor Herold A. Schulz to Mt. Olive, supporting the information in #44.
46. April 23, 1972 Letter from Pastor Koch to Members of Mt. Olive, discussing Praesidium's March 13 presentation.
47. April 20, 1972 Letter from Pastor Free to Pastor Koch, asking him to withdraw his protest and charges against the synod.
48. April 20, 1972 Presentation from Neb. Dist. Praesidium to Mt. Olive, entitled "What is Pastor Koch's Sin?"

49. April 25, 1972 Letter from Mt. Olive Church Council to Commission on Doctrinal Matters, urging them to investigate charge of false doctrine against Neb. Dist. Praesidium.
50. April 26, 1972 Letter from Pastor Koch to Dist. Praesidium, rejecting "What is Pastor Koch's Sin?"
51. May 14, 1972 Letter from Praesidium to Pastor Koch, Notice of Suspension of Pastor Koch (see appendix 1).
52. July 10, 1972 Letter from Praesidium to Mt. Olive, Notice of Suspension of Mt. Olive Ev. Luth. Church.
53. July 14, 1972 Letter from Pastor Free to Mt. Olive, notifying them of their right to appeal.
54. Undated Letter from Pastor Koch to "Those With Christian Concern Regarding the Suspension," detailing Pastor Koch's reaction to the suspension (see appendix 2).
55. July 26, 1972 Letter from District Commission of Review to Pastor Koch, requesting documents for review of the case.
56. August 28, 1972 Letter from Pastor Koch to Dist. Comm. of Review, denying request.
57. Sept. 5, 1972 Letter from Dist. Comm. of Review to Pastor Koch, requesting his teaching on the third use of the Law.
58. Sept. 11, 1972 Letter from Pastor Koch to Dist. Comm. of Review denying request, since the Commission was to review only such evidence as was used in the earlier handling of the case.
59. Sept. 15, 1972 Letter from Mt. Olive to members who had not attended services or the Lord's Supper at Mt. Olive since the suspension, notifying them that they would be dropped as members.
60. Sept. 20, 1972 Letter from Dist. Comm. of Review to Pastor Koch, requesting a paper written by Pastor Koch on the third use of the Law.
61. Oct. 5, 1972 Letter from Pastor Koch to Comm. of Review, stating an "epitome" of his stand on the third use of the Law.