

The Role of the "Status Confessionis" Dispute
in the Dissolution of the FAL

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Church History A

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PART I:

Determining What "Status Confessionis" Is

The Federation for Authentic Lutheranism officially began on November 1-2, 1971 with high hopes. About 200 Scripturally conservative LC-MS pastors met at that time in Libertyville, IL with the desire to preserve the scriptural and confessional stand that the LC-MS had represented for so many years. The turn of events in "Old Missouri" had gone from bad to worse. The liberal faction within the LC-MS had squeezed out a majority vote for fellowship with the ALC in the 1969 Denver convention. There were many working hard for membership in the WCC and the LWF. The Concordia Publishing House was turning out materials that were based in the use of the higher-critical method of interpretation. Saddest of all, these very Scripture-destroying methods of interpretation were being employed and taught by a majority of the Concordia Seminary faculty. The desire for ecumenism among all Christian denominations was rising to a fever pitch. It was time for the end of talk and the beginning of action if the truths of Scripture were to be preserved at all from ecumenical obscurity. One such decisive beginning was the formation of the FAL. It's main purpose was to provide a house of refuge for those who could no longer tolerate the false doctrine and practice within the LC-MS.

Unfortunately, too many congregations and pastors, although doctrinally sound, were not yet ready for such a decisive step as total break with Missouri. Only a handful of the approximately 200 at Libertyville joined the FAL at that time. The reasons

for not joining were various. Most of the pastors attending had not been authorized by their congregations to join their congregations to the FAL. They were present mainly to gain information about the new Federation. Most of these congregations were not yet ready for a break. The average member didn't realize how bad things had gotten in Missouri and the pastors needed more time to instruct them. So the pastors didn't want to join FAL themselves until their congregations were ready to join.

For pastor and congregation alike, the very prospect of leaving their once beloved synod had many emotional overtones. Missouri had truly been good for them for many decades and this had created an intense and patriotic loyalty. A break with the LC-MS would be looked upon as treason by some. Pressure from others to stay in the LC-MS and work from the inside to correct the problems increased steadily. Also, an individual pastor had much to lose in the line of finances and friendships by leaving Missouri. All these factors in combination produced a great reluctance to break with the LC-MS for many congregations and pastors.

To partially overcome this problem, a seemingly harmless intermediate step to full membership in FAL had been proposed. This was called non-voting or advisory membership. Among those who could become advisory members were "4. Congregations, pastors, teachers and laymen who are sympathetic to the goals of FAL by declaring themselves in statu confessionis (a state of confessional protest to the errors within the church body with whom they have membership)."¹ To enable a LC-MS member or congregation

¹ preliminary draft of FAL constitution, from 1971 Constituting Convention workbook.

to do this, "A Status Confessionis Declaration" was included in the Convention Workbook (See Appendix A). Any pastor or layman who signed this could have speaking, but not noting, privileges on the convention floor. By this method, it was hoped that official contact and church fellowship could be maintained between those pastors and congregations who were not yet officially joining the FAL and the pastors and congregations who were now making a public break by leaving the IC-MS. In this way, some in FAL hoped that they could help those pastors and congregations to overcome their various problems and provide a smooth transition into full membership with FAL.

This advisory membership had been proposed by one of the two loose associations that were coming together to form the Federation. This West Coast association was known as Californians for Authentic Lutheranism (CAL; later, most of the pastors of this original group formed a loose association also called CAL: the Conference for Authentic Lutheranism). They had done much of the basic groundwork in preparation for the Constituting Convention in Libertyville. In North Hollywood on April 26, 27, 1971, they had taken care of some of the details for forming FAL and also had prepared the preliminary draft of the FAL constitution. (FAL had been incorporated as a California non-profit corporation on July 16, 1971.) At the November convention, it was pointed out by members of the other loose association (FAAL, Free Association for Authentic Lutheranism, basically Midwest) and by representatives of the WELS and ELS that this advisory membership would be a source of confusion and future problems. In reality, it was providing for a dual member-

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ship. These advisory members would belong to both an orthodox church body and also one that they had declared to be heterodox and unionistic (cf. sixth "WHEREAS" of the Status Confessionis Declaration). This would be a misuse and violation of scriptural principles of church fellowship. Therefore the voting members of the FAL voted to drop such an advisory membership from the constitution. They also decided not to have altar and pulpit fellowship with those who were in a State of Confession, but still in the IC-MS. This was done without really discussing the scriptural basis for this and without finding out exactly why members of CAL had advocated this advisory membership.. So, advisory membership had never actually been condemned as contrary to Scripture. It seems to have been taken for granted that everyone understood why such an advisory membership was untenable.

The problem: everyone forming FAL didn't understand why this non-voting membership could not be used. This was discovered 3 years later at the fourth annual convention of the FAL in North Hollywood. There, one of the California congregations had proposed this resolution:

RESOLVED, that FAL revert to a "Declaration of In Statu Confessionis" as originally adopted at North Hollywood, CA on April 26,27, 1971.

This resolution would again allow FAL congregations to commune those people who were members of an IC-MS congregation, but in a public State of Confession. The resolution had not been introduced to consciously alter FAL's practice of church fellowship, although this is what it would have done. Those in favor of the resolution thought that by this means they were merely changing an ecclesiastical rule that had been adopted at Libertyville in 1971. They

fully believed that such a rule (not to commune publicly protesting members of the IC-MS) was an adiaphoron and did not have anything to do with the true practice of church fellowship.

How did they come to such an understanding? In order to find this out, it is necessary to look closely at what "Status Confessionis" is and how it relates to the doctrine of the church.

The "State of Confession" had once been defined by Prof. J. P. Meyer as the "state of confusion." This is accurate, if nothing else, to show how temporary Status Confessionis should be. In short, Status Confessionis is a state of protest by members within a church body that declares that if that church body does not return to the true scriptural doctrine, it will lead to the severing of fellowship and the breaking of membership with that church body. The above distinction is the author's own. The severing of fellowship is the cutting off of actual worship fellowship, whether by communion, prayer or pulpit exchange. The breaking of membership is a total and complete break. It must be noted here that membership in a church body is also a person's public, formal declaration of fellowship with a church body, even though a person's ACTUAL worship fellowship has ceased. Fellowship does not cease to exist until a complete break is made. A congregation in statu confessionis will undoubtedly carry on fellowship with other like-minded congregations within that church body.

In 1970, the Commission of Theology and Church Relations of the IC-MS defined Status Confessionis this way:

In the current usage of our church, it is quite generally employed to declare that a particular teaching, practice or action of the church against which the protest is lodged is contrary to the Word of God or endangers the Gospel. Used in

this sense, the declaration that one is in statu confessionis is not tantamount to the breaking of fellowship. If, however, the circumstances which called forth the protest are not corrected in due time, the implication is that the protest will lead to the severing of fellowship relations.²

Note that with this definition, Status Confessionis does not break fellowship, but could lead to such a break. This is the type of Status Confessionis that the WELS declared in its convention in 1959. It was called a state of "protesting Fellowship" within the Synodical Conference. When things did not improve within the Missouri Synod, WELS declared itself to be in a "vigorously protesting fellowship" within the Synodical Conference. This went farther than the above LC-MS definition of Status Confessionis. It served to be a severing of worship fellowship but not a breaking of membership with the Synodical Conference. From that time on, WELS did not participate in worship or in altar fellowship with members of the Synodical Conference, although the breaking of membership did not occur until 1961.

This latter type of "vigorously protesting fellowship" is how FAL officially understood the term "Status Confessionis." This can be seen by their Declaration of Status Confessionis (Appendix A, esp. page 2). Any person who signed this declaration agreed to withhold financial support from the LC-MS and cut off any type of worship fellowship with the LC-MS, except with those who were in a similar public state of confession. This, for all intents and purposes, cut off all relations with the LC-MS, except for actual official membership in that body. It is very temporary in nature

²quoted by A.E. Wagner, "Confessional Declarations," Evangelical Directions For The Lutheran Church, 1970.

because the person declares that he will soon resolve the question of membership in the IC-MS. As soon as a person breaks that membership, he is no longer in fellowship with the others who are still in such a state of confession. He has left that "state of confusion" behind and may now join in fellowship with those who are doctrinally orthodox. This also serves as vigorous testimony to those who are still in statu confessionis that they also should be acting to break membership with the heterodox body, so that they may once again join in fellowship. Although the desire would be strong to remain in fellowship with those that you know are doctrinally sound but still protesting, this desire cannot be fulfilled because the person or congregation still in protest also still has their formal confession of faith with the heterodox church body. There are still varying amounts of contact and even actual fellowship with that synod. Their personal or informal confession of faith may be truly correct, but they have not yet changed their formal confession to follow suit. Therefore, to fellowship with them would be confusing. It is also not doing the protesting congregation any favors. It is not properly showing them that it is important for them to get their formal confession in line with their personal, informal confession. If anything, fellowship at that point would weaken their resolve to leave the heterodox body and give them the impression that fellowship can continue no matter how long they remain in the heterodox body. Of course, there would always be cases where a person had always practiced fellowship with you and now comes to your church and again desires communion. He

has not dealt with the issues involved in your break and it is extremely difficult for him to understand the difference. To withhold fellowship from him may be damaging to his faith. Such instances, where a person finds it impossible to understand, are cases of casuistry and the pastor involved will have to decide what to do as he sees fit.

FAL's official understanding and practice of Status Confessionis was discussed by representatives of the three orthodox church bodies, WEIS, ELS and FAL, in a meeting of the Ev. Lutheran Confessional Forum, held in October, 1974. It was agreed by all that FAL's position was the correct one. This, however, was not the understanding of a certain segment within FAL.

This group within FAL (which for the sake of convenience, will be called members of CAL-the second one-in this paper) did not see the importance of a person's formal confession of faith which he gave by being a member of a heterodox body like the LC-MS. To them, if a person had declared himself to be in statu confessionis, he had virtually cut off fellowship with the LC-MS and his actual membership with the LC-MS really didn't matter. His informal and personal confession of faith was correct and therefore he was in doctrinal unity with the orthodox congregation. He was thus a recognized member of the body of Christ, the true church, and therefore could be received into communion with them. The results of this type of thinking was expressed in a paper given by one of the members of the original CAL in 1970:

Externally, the Status Confessionis can have a powerful effect. It can reach across synodical and denominational lines to the faithful, prompting them into a proper Status Confessionis in relation to the erring in their own group. And when they have done so and they find them-

selves in full doctrinal agreement with the faithful in other groups, they can enter into altar and pulpit fellowship with each other.³

A fellowship of this kind that reaches across denomination lines would correctly be called "selective fellowship" because it ignores a person's formal confession of faith. One selects those people or congregations who are more conservative and decides to practice fellowship with them. Also, the above practice seems to make the "state of confession" a rather permanent thing. A congregation would be making use of Status Confessionis when it joined in fellowship with one newly coming into a state of confession, even though that original congregation had long ago broken all ties with the heterodox body. Thus, it is taking a very particular and temporary measure of dealing with one's own church body and making it into a practice that is intended to bring together the faithful and doctrinally-sound believers everywhere on earth. This desire is indeed Scriptural (make every effort to keep the unity of of the Spirit through the bond of peace, Ep 4:3), but the method is not. Yet, the above paper that advocates this use of Status Confessionis seemingly denies the fact that this would be a type of Selective Fellowship and something quite permanent:

It is understood, of course, that the Status Confessionis procedure can be misused. It is not an attitude that can be maintained indefinitely without turning it into its very opposite: a form of compromise rather than an unqualified testimony to the truth maintained with integrity. It must lead within a reasonable time, dictated by circumstances, either to reform or to a separation. Titus 3:10. Where that is not understood or practiced, a wrong kind of "Selective Fellowship" develops, such as Synodical officials often recommend to pastors and congregations who are in protest.⁴

³Ibid., p. 58.

⁴Ibid., p. 58.

So one can see how members of CAL could legitimately condemn Selective Fellowship, as they did later, and still practice fellowship across denominational lines. To them, Selective Fellowship was joining together with anyone who was conservative, but had not entered in statu confessionis. To the rest of FAL, WEIS and ELS, Selective Fellowship meant joining together with any conservative, whether he had entered a state of confession within his church body or not.

Why did those men who were advocating an actual misuse of Status Confessionis feel so positive that this was not a misuse at all? They were supported by a logical conclusion drawn by a wrong understanding of "Church." This was not evident at all in the above paper, and it was only briefly alluded to in a later and more detailed paper on Status Confessionis endorsed by the members of CAL in 1975.

Historically and scripturally, the Lutheran Church has always understood "church" in its basic sense to mean the communion of saints, the UNA SANCTA, those people who have faith in Jesus as their Savior from sin (cf. A.C. VII & VIII). Because only God can judge who has faith and who doesn't, this has been called the church universal or the invisible church. The visible church is wherever men can actually see that there are believers. This includes any truly Christian church, whether Roman Catholic or Lutheran, because they have the marks of the church, i.e. wherever the Gospel is rightly taught and the sacraments rightly administered. The purer these marks of the church are, the surer one is of the presence of the church. Therefore, one would recognize an orthodox Lutheran church as being a very visible part of the

invisible church, although it still contains hypocrites. Here, true visible unity can be expressed because the Word of God is taught in all of its truth and purity. This is God-pleasing unity. Up to this point, all conservative Lutherans are in agreement.

The difference in the doctrine of church involves the identification of that visible church on earth. The correct understanding is that wherever the marks of the church are and true believers can be seen, there is the visible church. So local congregations, synods, theological schools, etc. are all part of the church. One can see believers in all such organizations. They all are doing church work and thus are preaching and teaching God's Word. Yet, one can practice visible unity with only such groupings of believers where the Word of God is purely taught. All others are to be marked and avoided (Rm 16:17). The improper understanding of "church" is that only the local congregation is "church" in the real sense. It is the only one that is divinely instituted and any other type of grouping or organization is a human establishment and therefore not really "church."

Basically, this is the difference that became a point of argument between the Piéper brothers, August of WELS and Franz of LC-MS. The wrong understanding of church was clearly advocated by a number of the next generation's theologians, who were otherwise orthodox, within the LC-MS. A type of compromise on this problem was contained in the Thiensville theses. To a certain extent, they could be read to allow either doctrine. Because of this, the understanding of the doctrine of "church" began to separate the LC-MS and WELS, especially when men like Dr. Theodore Graebner clearly taught the improper understanding. This was never specifically dealt with to completion because the doctrine of fellowship

became the deciding issue. That the founders of the LC-MS did not have the wrong understanding of church can be demonstrated from their original constitution, as one recent LC-MS author very ably does.⁵ The same author also believes that this wrong understanding of church unintentionally led to the Scriptural justification of false unionism and ecumenism in the Missouri Synod:

While the issue (over fellowship) at first appeared to be merely a difference over the interpretation and application of this or that Bible-text, it is now clear that what was really going on was a radical, revolutionary overturning of the Lutheran doctrine of the church--even though no one at the time intended that! The false development moved in two somewhat contradictory directions at once: on the one hand, the church came to be seen as essentially visible; but, on the other, church-bodies, synods, federations, indeed any formations beyond local congregations, were no longer regarded as being "church" in any legitimate sense at all. Hence the doors were open to the modern Ecumenical Movement with all its pomp and all its works.⁶

This wrong understanding of church also led to the confusion of the visible and invisible churches and the denial of synodical organizations as "church" among some members of CAL. It must be stated clearly here that absolutely no member of CAL or FAL advocated the use of this doctrine to promote a false ecumenism as some did within the LC-MS. This was one of the very reasons why they had left the LC-MS. Nevertheless, some in CAL did use this wrong understanding as support for their misuse of Status Confessionis to promote what they called "true ecumenism." This is evident from one paragraph of their 1975 position paper on Status Confessionis:

⁵Kurt E. Marquart, Anatomy of an Explosion (Fort Wayne: Concordia Theological Seminary Press, 1977), pp. 56-57.

⁶Ibid., p.52.

A true understanding of the doctrine of the Church also teaches this very thing. (that a congregation must be able to exercise Status Confessionis-my addition, S.B.) For the congregation is not merely a part of the Church universal; nor is it merely a finger governed by the hand of a synodical superstructure. It is not even merely representative of the Church. No, the congregation IS the Church, the Una Sancta (emphasis theirs) at that particular place, CHRIST's representative, HIS plenipotentiary endowed with all the powers He gives in the Holy Spirit and accountable always to HIM in all matters of their use. . . . The work of mutual assistance and propagation of the truth is indeed commanded, cp. Hb 6:10, but the organizational superstructures of various kinds designed to serve this purpose are, strictly speaking, adiaphora, within the limits of the Scriptural concept of the Church.

Thus the line of thought is this: When FAL prohibited the practice of fellowshiping with those in statu confessionis in 1971, they cut off their effectiveness to witness to those within Missouri. Because a synod is merely an organization to serve human purposes and is not the "church" as such, and is not divinely instituted, it has no right to decide with whom its members can fellowship. Only the congregation is "church" and has that right. Such congregation is not accountable to the synod, but only to Christ. When administration decides on fellowship, it is really overstepping its bounds and ruling in an area of adiaphora, as far as synods are concerned. So also, belonging to such an organization is not really a declaration of confession. It does not automatically unite a person with others in that organization if that person is in statu confessionis. Official membership means nothing in the face of an individual's personal confession.

This author hesitated to quote the above paper because it was completely withdrawn. However, the facts must be brought to light. Also, it must be clearly stated that the majority of the

pastors in CAL did not understand the implications of the above paragraph on the doctrine of the church. I am convinced of this. For one thing, it was not the basic line of reasoning in the paper.

The members of CAL also did not understand that their advocated use of Status Confessionis was really misuse. The majority seemed to be supporting the 1975 paper because they agreed with its conclusions. They felt that such a use of Status Confessionis would make them more effective in witnessing to protesting members of the LC-MS. They wanted to be able to join in fellowship with all doctrinally pure believers, as we all desire. Yet, they did not realize that this is impossible on earth if those believers are members of heterodox church bodies. The public, formal confession of a child of God was played down or even eliminated in their intended practice of fellowship. Exactly how much of the wrong understanding of church was behind the thinking of each individual in CAL is impossible to determine. The facts seem to suggest that for the most part, there was very little of that.

From the author's personal interview with one of the WEIS pastors on the CICR, the only proper conclusion is that these men for the most part, did not hold false scriptural views on church and fellowship. Remember that with FAL's strict interpretation of Status Confessionis, for all intents and purposes, true fellowship as evidenced by actual acts of worship and support was cut off. The fellowship remaining was solely in actual membership. It would be easy to rationalize away the effectiveness of membership in a church body as a type of valid fellowship. Yet, membership definitely does have the implications of fellowship.

If there was no true fellowship in any other way, why wouldn't a person also bring his actual membership in line with his practice in a very short time? Testimony to an erring church body by protesting fellowship is effective for only a short time.

Another important consideration: In the original meetings that WELS had with FAL, the doctrine of church was discussed thoroughly. Present at these meetings were some of the same men who endorsed the above 1975 paper on Status Confessionis. The WELS Commission on Inter-Church Relations specifically centered part of the discussion on the proper understanding of what church is. The wrong understanding of that very point was what had prevented our joining in fellowship with another LC-MS splinter group, the Lutheran Churches of the Reformation. At the time of the FAL meetings, the representative members later in CAL were in complete agreement on the doctrine of church.

Much later, in the November 17-18, 1975 meeting with the representatives of CAL and the respective doctrinal boards of the WELS and ELS, it was discovered that the majority of the pastors in CAL were supporting a paper that they had not actually written. Also, the people who had written the paper used many of the thoughts that had been expressed by a German theologian, Dr. William Oesch. He had once written articles concerning Status Confessionis that had been printed in early editions of Sola Scriptura. It is quite certain that he indeed was wrong in his understanding of "church." A good number of the rest of FAL were convinced that ^{all of} CAL had exactly the same ideas about "church" that he did. This helps explain some of their actions later.

At this November 1975 meeting in West St. Paul, Minnesota, "In Statu Confessionis," the position paper of CAL, was thoroughly discussed. Part of the discussion hinged around the "question as to whether an individual's confession may sometimes be determined more by his personal, informal confession than by his formal membership in a church body;"⁷ Those parts of the paper that advocated a practice of church fellowship that cuts across denominational lines were particularly singled out. The representatives of WELS and ELS pointed out that this kind of practice completely ignores a person's formal public confession that he makes by being a member of a particular church body. They demonstrated that scripturally, this should not be done. In cases when an individual makes a personal declaration of Status Confessionis apart from his home congregation, it was pointed out that this practice was really meddling in another man's ministry. This instruction was done solely in a brotherly way that revolved around Scripture.

At the next session, the following day, the representatives of CAL put forth this statement:

We wish to express our deep appreciation for the counsel, patience, kindness and candor expressed by the participants of the committees of WELS and ELS and for the fact of the brotherly concerns by which our discussions have been conducted. Responding to these expressions of Christian brotherhood and considering the segments of our paper which might give offense to some, we suggest the following changes.⁸

The changes which the representatives made deleted all of the references to fellowship that cuts across organizational lines. This was done because all present realized the problems that had often been caused within the LC-MS when erroneous papers were

⁷minutes of the Nov. 17, 18, 1975 meeting.

⁸minutes; also contained in the 1976 Report to the Ten Districts.

simply withdrawn without changing any of the errors. After the changes were made, the following formal statement was read and distributed by the CAL representatives:

Inasmuch as our document, "In Statu Confessionis," has been charged with emotional overtones and has been greatly misunderstood by some, we herewith suggest that for the purpose of this meeting and the goals we wish to achieve under the Word, that this document be set aside until we establish a set of guidelines by which we can uniformly practice church fellowship and to whom it is to be extended, including the matters of formal and informal confession. We, furthermore, ask that the guidelines which are adopted be guidelines which truly reflect the actual practice which exists in our churches.⁹

The rest of the meeting then centered on establishing such a proper guideline concerning the practice of church fellowship.

The guideline adopted by all three bodies is as follows:

Do we hold that the exercise of church fellowship, especially prayer and altar fellowship, can be decided in every instance solely on the basis of formal church membership, that is, on whether or not the person belongs to a congregation or synod in affiliation with us?

No. Ordinarily this is the basis on which such a question is decided since church fellowship is exercised on the basis of one's confession to the pure Marks of the Church, and ordinarily we express our confession by our church membership. There may be cases in the exercise of church fellowship where a person's informal confession of faith must also be considered. This is especially true regarding the weak. Both whether one is guided by a person's formal or informal confession of faith, in either instance it must in principle be a confession to the full truth of God's Word. In addition, special care must be exercised so as not to cause offense to others or to interfere with another man's ministry. Further, we are not to judge harshly concerning the manner in which a brother pastor after much agonizing handles such difficult cases.¹⁰

⁹minutes; also contained in 1976 Report.

¹⁰minutes; also contained in 1976 Report.

With this guideline and with the proper withdrawal of the discussed paper, the fellowship with CAL that had been under question because of the dispute over Status Confessionis was fully affirmed. It was because of the resolve among all the representatives, to above all be true to Scriptures, that everything was solved in a God-pleasing manner. The various pastors and congregations that were part of CAL have gone different ways. Some have joined ELS, some WELS, some have still remained independent (cf. Appendix G). But up to the time of this writing, all have remained in a scriptural and thus God-pleasing fellowship with those believers that make up the synods of WELS and ELS.