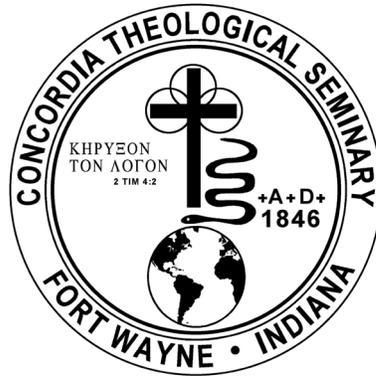


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Fellowship in Its Necessary Context: The Doctrine of the Church and the Overseas Theses of 1961

Jonathan G. Lange

I. Historical Introduction

The formation of the German Evangelical Lutheran Synod of Missouri, Ohio, and Other States in 1847 took place within an environment of confessional revival that had been sparked by the three hundredth anniversary of the Reformation in 1817. American Lutheranism had been under its leavening effect for three decades. The Henkel family had departed the North Carolina Synod in 1820, and Wilhelm Sihler parted ways with the Ohio Synod in 1845, both as a result of a growing confessional consciousness.

After the 1847 constituting convention of the Lutheran Church—Missouri Synod (LCMS), North-American Lutheranism continued a trend toward confessional orthodoxy. The Wisconsin Synod and the Norwegian Synod were both influenced toward a greater Lutheran identity. Perhaps most notable was the work of Charles Porterfield Krauth and the establishment of the General Council in 1867. As individual synods moved toward orthodoxy, there was a concomitant desire to recognize the ecclesiastical unity that grew out of a renewed study of the Lutheran Confessions.

Erling Teigen aptly captured this momentous time in the following words:

In December 1866, Krauth presented a set of theses on Faith and Polity as the basis of a new general synodical organization, and it was signed by thirteen synods, including Pennsylvania, Joint Synod of Ohio, Missouri, Norwegian, Wisconsin, Minnesota, Michigan, Iowa, Canada, and New York. A year later, however, in November 1867, when the General Council was formally organized, the Missouri and Norwegian Synods were absent.¹

What explains the withdrawal of Missouri and the Norwegians after they had signed the original theses only eleven months earlier? For that matter, why did Wisconsin, Ohio, and Minnesota later follow the same course?

¹ Erling T. Teigen, “Ecumenism as Fellowship and Confession in the Evangelical Lutheran Synodical Conference of North America,” *Logia* 12, no. 2 (Eastertide 2003): 6.

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Was it the disparity of formal confessional subscription? Missouri's constitution required subscription to the entire 1580 Book of Concord. The General Council, by contrast, limited subscription to the *Augustana* alone. Perhaps surprisingly, this glaring difference was not the deal-breaker.

Confessional fellowship with the General Council was not scuttled by differences in formal doctrine, but by inconsistency of practice. This is evidenced by an 1871 *Denkschrift* (position paper) prepared by F. A. Schmidt. The purpose of the work was to articulate "the reasons for forming a separate conference of synodical organizations."² It was disseminated in the months leading up to the organizing convention of the Synodical Conference. In its third part, the *Denkschrift* addresses the General Council. After lavishing much praise on the theology of the Council, particularly of Krauth, it says, "So far as the doctrinal basis is concerned which the Council has officially adopted in its constitution, we might be perfectly satisfied with that just as it is, as we would not make a change in it an absolute condition of our attaching ourselves to the Council."³ Clearly the synods that would soon form the Synodical Conference did not consider a truncated subscription to the full 1580 Book of Concord to be divisive of church fellowship.

The decisive obstacle, instead, was the disparity between doctrine and practice. While the General Council adequately subscribed to the Augsburg Confession, a number of questionable practices troubled the waters. The doctrine of "open questions," and its toleration of pulpit exchanges and intercommunion with Calvinists and other heterodox church parties, raised the specter that the Council's formal subscription to the Augsburg Confession was, *de facto*, a *quatenus* subscription.

In contrast, the Synodical Conference was determined, from the start, to hold doctrine and practice together. Formal subscription to the Lutheran Confessions needed to be coupled with the actual living-out of the Lutheran doctrine in ecclesiastical life. This became the *raison d'être* for the Synodical Conference. In the end, it also brought its demise.

Formed five years after the General Council, the Synodical Conference lasted from 1872 until 1967 when the Synod of the Evangelical Lutheran Church (SELC, or "Slovak Synod") was absorbed into Missouri as a non-geographical district. Though this was its formal end, the practical end of the Synodical Conference came

² Teigen, "Ecumenism as Fellowship," 6.

³ Teigen, "Ecumenism as Fellowship," 15n4, quoting from *Denkschrift, enthaltend eine eingehende Darlegung der Gründe, weshalb die zur Synodal-Conferenz der evang.-luth. Kirche von Nord-Amerika* ("Memorial Containing a Comprehensive Statement of the Reasons Why the Synods Forming 'The Evangelical Lutheran Synodical Conference' Could Not Join Any of the Existing Unions of Synods Bearing the Lutheran Name"), which appeared in the Ohio Synod's *The Lutheran Standard* (May–July 1872): 73–98.

six years earlier (in August of 1961) when the Wisconsin Synod (WELS) voted to suspend fellowship with Missouri. Since the Evangelical Lutheran Synod (ELS) had already taken similar action in 1955,⁴ this move effectively killed the Synodical Conference.

At the risk of oversimplification, two issues loomed large in the deliberations of the ELS and WELS. First, there was Missouri's ambivalence toward the Boy Scouts. The LCMS in convention declined to take an official stance and left the issue to each congregation. Second, there was at least one congregation that was not practicing according to the synod's formal confession. While a process of discipline was under way, the ELS and the WELS were perennially frustrated with the snail's pace of progress made by Missouri's disciplinary process.

Missouri, for her part, was not idle in addressing the issues. On the contrary, LCMS President John Behnken reached out to Lutheran bodies across the sea in an effort to save the fellowship. He asked our sister synods in England, Germany, Belgium, France, Finland, Brazil, and Australia to form an Overseas Committee that would help the Synodical Conference find its way through the impasse.⁵ Henry Hamann of Adelaide, Australia, chaired this committee, which drew up a set of theses designed to bring clarity to the issues at hand. On the morning of May 17, 1961, at Wisconsin Lutheran High School in Milwaukee, Dr. Hamann presented the Statement of the Overseas Committee titled "Fellowship in Its Necessary Context of the Doctrine of the Church."⁶

As it turned out, this was effectively the last meeting of the Synodical Conference. Three months later, Wisconsin's suspension of fellowship meant that the conflicting parties would never again meet at the same table.⁷ Lost in the shuffle was the work of the Overseas Committee. To this day, its theses remain unexplored as a resource for navigating the fellowship questions that have bedeviled confessional Lutheranism in America.

While the Overseas Theses were not able to forestall the breakup of the Synodical Conference, it would be shortsighted to consign them to irrelevancy. Oftentimes those closest to the conflict and personally invested are denied the perspective that disengagement allows. The Overseas Committee provided a tightly

⁴ *Reports and Memorials for the Forty-Sixth Convention of the Ev. Lutheran Synodical Conference of North America, August 2-5, 1960* (St. Louis: Concordia Publishing House, 1960), 5.

⁵ Kurt Marquart, "The Church and Her Fellowship, Ministry, and Governance" (Fort Wayne, IN: International Foundation for Lutheran Confessional Research, 1990), 3.

⁶ *Proceedings of the Recessed Forty-Sixth Convention*, Lutheran Synodical Conference, 1961, pp. 28-29.

⁷ *Proceedings*, Wisconsin Synod Convention, 1961 (Floor Committee 2, Resolution #1).

reasoned, coherent, and faithful framework for approaching fellowship issues, not only within the now defunct Synodical Conference, but for all times and places.

Kurt Marquart brought these theses to the attention of the first annual National Free Conference in 1990. “To my mind,” he stated, the presentation of these theses “is the high-water mark of the discussion of [church fellowship].” He went on to suggest that “these Thirteen Theses of 1961 would be an excellent starting point.”⁸ Toward this end, the following reflections will hopefully set forth some of the simple profundities of this untapped resource and encourage others to study and consider its implications.

II. Argumentum

Summary

The Overseas Theses are thirteen in number. The first five lay out a concise syllogism, beginning with the church and faith, moving through the means of grace, and resting in church fellowship and the marks of the church. The following eight theses are comprised of four pairs that supplement and clarify terms used in the syllogism. Theses 6 and 7 assert that the marks of the church are, by definition, the pure marks. Theses 8 and 9 define the pure marks by the Lutheran Confessions. Theses 10 and 11 discuss how the pure marks hold sway in concrete ecclesiastical life. Finally, Theses 12 and 13 distinguish between the marks of the church and other visible manifestations of fellowship.

The Syllogism

The syllogism begins:

The holy, catholic, and apostolic church is one body in Christ, incorporating all believers whose faith is created, sustained, fulfilled, and known by God alone. The church and the faith of the heart (*fides qua*) are outside the competence and direct comprehension of men.⁹

Note, first of all, that the four adjectives of the Council of Constantinople describing the church (one, holy, catholic, and apostolic) are themselves indivisible and are

⁸ Marquart, “The Church and Her Fellowship,” 3.

⁹ Thesis 1. Marquart, “The Church and Her Fellowship,” unnumbered appendix. Each thesis is also footnoted with a number of scriptural and confessional citations. These are reproduced throughout this paper in the footnote following each thesis: “Mt 16:16; Jn 10:16, 27–29; Gal 3:26–28; Eph 1:20–23; 2:14–15; 4:3–6, 15, 16 (Stoekhardt, *Lehre und Wehre*, 1901, 97ff.) – Nicene Creed; SC, Second and Third Articles; AC V and VII; Ap VII.5–8. John 6:44; Acts 13:48; Col 2:12; 3:3, 4; 2 Tim 2:19.”

implied in the definite article. “*The church*,” by its very definition, is simultaneously unified, holy, catholic, and apostolic. There can be no such thing as a church that is unified but not holy, or apostolic but not catholic.

Second, since the church is the body, “incorporating all believers,” it is defined by faith.¹⁰ More precisely, this faith denotes the *fides qua creditur*—saving faith in the heart. Each and every believer and possessor of such faith, across time and space, is a member of the one, holy, catholic, and apostolic church.

Third, and this is a vital consideration, since it is impossible for man to perceive saving faith directly, it is also impossible for man to perceive the church directly. Both “the church and the faith of the heart are outside the competence and direct comprehension of men.” Rather, these are “created, sustained, fulfilled, and known by God alone.”

Jesus prepared his church for this reality in the upper room, saying, “A little while and the world will see me no more, but you will see me” (John 14:19).¹¹ Expressing this same ecclesial reality, St. Paul wrote the Colossians, “Your life is hidden with Christ in God. When Christ who is your life appears, then you also will appear with him in glory” (Col 3:3–4).

Faith and church are correlatives. Where there is faith, there is the church and vice versa. This observation leads directly to this statement:

Faith is created and sustained by God through the means of grace. Where the means of grace (Gospel and sacraments) are in use, even where much impeded, there believers are present. We know this by faith and not by empirical experience. This knowledge rests on the promise of God in the means of grace outside of us (*extra nos*) and not on criteria in us (*in nobis*), sanctification, or any assessment of men, their works, polity, or discipline.¹²

¹⁰ Recall that in Greek, Latin, and German, the verb “to believe” and the noun “faith” are derived from the same root. This highlights the essential connection between the act of believing and the possession of faith.

¹¹ All Scripture quotations are from the ESV[®] Bible (The Holy Bible, English Standard Version), copyright © 2001 by Crossway, a publishing ministry of Good News Publishers. Used by permission. All rights reserved.

¹² Thesis 2, “Is 55:10–11; Lk 8:11–15; Rom 10:5–17; 1 Pet 1:23–25; Titus 3:5, 6, CA V: “That we may obtain this faith, the ministry of teaching the Gospel and administering the Sacraments was instituted. For through the Word and Sacraments, as through instruments, the Holy Ghost is given, who works faith, where and when it pleases God, in them that hear the Gospel, to wit, that God, not for our own merits, but for Christ’s sake, justifies those who believe that they are received into grace for Christ’s sake.” Ap IV:67; 346 (225) [the latter found only in the *Triglotta*, p. 217]; SC, Third Article; (cf. Large Catechism, Third Article.43–45); SD II.50; XI.29, 50. No other criterion: Ap VII.10, 11, 18, 19. 1 Sam 16:7; Acts 15:8.”

While direct perception of saving faith is impossible to the world, the faithful nevertheless know that wherever the means of grace are in use, God is present creating faith. The connection between faith and the means of grace is itself known only by revelation of the external word. Hence any additional or alternative criterion, including church discipline, cannot augment the certainty of God's creative work through the means of grace.

Since faith and the church are correlatives, and since faith is created by the means of grace, it follows:

Where the means of grace are in operation, there the church is to be found—whole, local and tangible. The assembly regularly gathered about the pure teaching and the right administration of the sacraments is called by God Himself the church at that place, irrespective of the hypocrites who may be attached outwardly to such assembly. This is no mere organizational form or association of individuals, but the one church that will remain forever (*Una Sancta perpetuo mansura*) in the exercise of its God-given, spiritual functions (office of the keys). This church is only one. Though locally apprehended, it must not be thought of as isolated, intermittent, or individual with reference to persons, time, or place.¹³

Here is the “one, holy, catholic, and apostolic church,” of the Nicene Creed; and the “*una Sancta perpetuo mansura*” of *Augustana VII*. As the means of grace create faith, so they are creating the church, which is the assembly of faith. The presence of hypocrites commingled with it in no way compromises this reality. Nor is the church properly understood as organization or association. Rather, God Himself calls the assembly regularly gathered about the Gospel and sacraments “the church at that place.”

Even though the church is “whole, local and tangible, . . . it must not be thought of as isolated, intermittent, or individual with reference to persons, time, or place.” This final sentence of Thesis 3 contains an instructive chiasm. The church is located at a place but is not isolated there; she is found at a definite point in time but is never intermittent; she is comprised of definite persons but is not individualistic. The chiasm here is also correlated with the three adjectives describing the church at the

¹³ Thesis 3, “Mt 18:18–20; Acts 6:7; 8:12–24; 19:20; Eph 4:13–16; 5:25–27. CA VII and VIII; LC, Third Article.51–58, 61f; AS Part 3, VII:1; Tractatus: 24, 67–69; SD X.9 – Luther (WA 18.652) [*Bondage of the Will* (1526), AE 33:89], 743 [*sic?*]: ‘The church is hidden, the saints latent. . . . The whole life of the church and its being is in the Word of God.’ Disputation of 1542 (Drews, 655f): ‘The church is recognized by its confession . . . it is in other words visible by its confession.’ The addresses of the epistles and Acts 2–5; 9:31.”

beginning of the thesis. Hence, the church is whole as regards persons, local as regards place, and tangible as regards time.¹⁴

It is precisely in the relationship of the church to place, persons, and time that we must consider it in the wider sense. While confessing that the church is present “whole, local, and tangible” in the regular assembly of the means of grace, we must not think of it as isolated, intermittent, or individualistic.

It is relatively easy to confess that the church is one across time. Who would not want to be identified with the church of St. James in first-century Jerusalem, or Gregory Nazianzen’s church of the Anastasis in fourth-century Constantinople, or Luther’s St. Marien Kirche in sixteenth-century Wittenberg? Similarly, Lutherans are quick to declare unity with individual members of the church across time. Who but a schismatic would deny fellowship to Cyril of Alexandria, Augustine of Hippo, John of Damascus, or C. F. W. Walther?

It is particularly the catholicity of the church within the present moment, but also across space and person, where difficulties arise. For this entails a concrete recognition of unity without the passage of time to efface the actual sins and contradictions of concrete churches. It requires charity, not only for sins long past, but for ongoing sins, weaknesses, and misunderstandings.

The unity of the church across time, space, and person finds its parallel in the means of grace.

The means of grace, which are the means of uniting the church to Christ, her Head, are a given whole, inseparable from the total revelation of Law and Gospel as set forth in the Scriptures (cf. the whole definition in AC VII).¹⁵

Just as the church is a given whole, so also are the means of grace. Hence, they cannot be considered piecemeal, or in isolation from the “all things whatsoever” of Christ’s baptismal mandate (see Matt 28:20). In terms of the Lutheran Confessions, the “*satis*

¹⁴ Here, let me point out a pertinent historic development. The concept of catholicity was first introduced by St. Ignatius of Antioch. In his epistles, he used this term to assert the completeness of the church at any given locale. It is this concept with which the Overseas Theses seem to be working, by using the word “whole.” Some centuries later, St. Augustine also used the term “catholic.” But he used it to talk about the sum total of Christendom. For Augustine, the accent is on the totality of the ecclesiastical organization and less on the completeness of any local manifestation of the church. This usage of the term “catholic” is not reflected here in the theses. Perhaps this is so because the Augustinian accent clouds the concrete and particular use of the means of grace, substituting instead the organizational aspect of church, which the theses reject as church in its proper sense.

¹⁵ Thesis 4, “Jn 10:34, 35; 16:12–15; 17:20; 1 Jn 2:26, 27; Rom 1:1, 2; 2 Tim 3:14–17; AS Part 2, II:15 ‘The Word of God shall establish articles of faith’; CA first paragraph of transition from Art. XXI to XXII; SD, Rule and Norm. Note the singulars ‘doctrine,’ ‘form of sound words,’ ‘deposit,’ etc. 1 Tim 3:15; Lk 24:47; 1 Tim 1:8, 9 par. – SD V and VI.”

est” of AC VII means the entire “doctrine of the Gospel and the administration of the sacraments” and excludes only human traditions. There is no article of faith taught by the Holy Scriptures that falls outside the term “means of grace.” Thus, in introducing the Abuse Articles, Melancthon wrote: “the churches among us do not dissent from the catholic church in any article of faith.”¹⁶

Having established the relationship between the means of grace and the existence of the church, and having confessed that this includes the “total revelation of Law and Gospel as set forth in the Scriptures,” the syllogism now arrives at the doctrine of church fellowship.

The means of grace create the fellowship of believers with God and thereby fellowship with all believers. This fellowship is, accordingly, given by God, not achieved by any human effort. Its existence can be believed and known only on the basis of the marks of the church (*notae ecclesiae*).¹⁷

What connects the doctrine of the church with the doctrine of church fellowship is the means of grace. That which creates faith in the heart toward God, and with it brings the church into existence, thereby creates fellowship with all believers through the one mediator, Jesus Christ. To be connected with God through the flesh of his Son is to be connected with all of humanity that is in Christ. This dual fellowship with God and with all believers is a single reality, two sides of the same coin.

Christologically speaking, just as the two natures of Christ are united in the person of Christ, so the two aspects of church fellowship (fellowship with God and fellowship with all believers) are united in the means of grace. The apostle John said precisely this in his first epistle: “If we say we have fellowship [*koinonia*] with him while we walk in darkness, we lie and do not practice the truth. But if we walk in the light, as he is in the light, we have fellowship with one another, and the blood of Jesus his Son cleanses us from all sin” (1 John 1:6–7).

Just as the church itself is not the creation of man, but the creation of God through the means of grace, so also church fellowship is not the result of human effort but is given by God through the very same means of grace. When we confess in the Small Catechism that “I cannot by my own reason or strength believe in Jesus

¹⁶ Robert Kolb and Timothy J. Wengert, eds., *The Book of Concord: The Confessions of the Evangelical Lutheran Church*, trans. Charles Arand, et al. (Minneapolis: Fortress Press, 2000), 61.

¹⁷ Thesis 5, “Acts 2:42; 1 Cor 1:[9]; 10:16, 17; 12:13; Eph 4:3–6; 1 Jn 1:1–4; 3 Jn 3–8. Ap VII/VIII.5f, 12, 19, 20. [David] Hollaz, *Examen* (1707 and 1750), p. 1300: “The inner and essential form of the church consists in the spiritual unity of those who truly believe, of the saints who are tied together (John 13:35) as members of the church with Christ the Head, by means of a true and living faith (John 1:12; Gal 3:27; 1 Cor 6:17), which is followed by a fellowship of mutual love.” Gal 2:6, 9, 11–14; 2 Th 3:14, 15; 1 John 1:5–7 – Ap VII/VIII.22; SD X.3.”

Christ my Lord, or come to Him” (SC II 3), we are led directly into the confession that God the Holy Spirit himself does this work for us.

We should emphasize here that the work of the Holy Spirit is not limited to the individual, but also works within the church. “In the same way also, He calls, gathers, enlightens, and sanctifies the whole Christian Church on earth” (SC II 3). The Holy Spirit alone gathers the church to make it one. He alone sanctifies the church to make it holy. Just as I cannot come to Jesus by my own reason or strength, we cannot gather or sanctify the church by any human craft or method. For this reason, just as the existence of the church itself can be believed and known only on the basis of the means of grace, so also the existence of church fellowship “can be believed and known only on the basis of the marks of the church (*notae ecclesiae*).”

Up until the very last words of Thesis 5, the discussion centered about “the means of grace.” But now, for the first time, we encounter the term “marks of the church (*notae ecclesiae*).” This change in terminology is significant and merits some reflection. Three things may be said.

First, since Thesis 5 starts by saying that, “The means of grace create . . . fellowship with all believers,” and concludes that the existence of this fellowship “can be believed and known only on the basis of the marks of the church (*notae ecclesiae*),” it is clear that for the Overseas Committee, “the means of grace” and “the marks of the church” are co-terminus. Second, the shift from means to marks signals a shift in focus from the cause of the church’s existence to the visible manifestation of the church’s existence. Third, the introduction of the Latin phrase *notae ecclesiae* introduces the word “marks (*notae*)” thus providing a bridge to the necessary specification of the *notae purae*.

Notae Ecclesiae as Notae Purae

Beginning with the final words of Thesis 5, every subsequent thesis, save Thesis 10, discusses the marks of the church (*notae ecclesiae*). Theses 6 and 7 immediately consider the relationship between false teaching and the marks of the church.

Where the marks of the church are opposed by false teaching, not only is this double fellowship (*in the Una Sancta*) endangered, but a power is set up which is in contradiction to the fellowship manifested on earth (see 12). Where the pure marks of the church (*notae purae*) hold sway, this disrupting power is repudiated and overcome through refusal to recognize its right to exist, for Christ alone must reign in His church through His Word. Where the sway of the pure marks of the church is rejected, the fellowship is broken. A rupture of fellowship for any other reason is impermissible. The restoring of a broken

fellowship must be brought about by use of the pure marks of the church, as they cleanse out the impurity.¹⁸

Since the means of grace and only the means of grace create the “double fellowship” with God and with his saints, and since the means of grace are always one and of one cloth with the whole of Scripture, false doctrine can only endanger faith, church, and fellowship, but it cannot enhance fellowship. Nor can its toleration contribute in any way either toward faith in God or love for the brethren. On the contrary, false teaching places the power of Satan within the church, which both undermines faith and contradicts the unity manifested in the *notae ecclesiae*. Hence, the *notae ecclesiae* are by definition the *notae purae*.

There is only one churchly response to false doctrine: “refusal to recognize its right to exist.” Positively stated, “the pure marks of the church [must] hold sway.” Where the *fides quae creditur* of a church is identical with the *notae purae*, there God is giving church fellowship, there God is cleansing out impurity. Again, the catechism says that just as God alone keeps “me in the true faith,” so also only he keeps the church “with Jesus Christ in the one true faith” (SC II 3). And he does both works by the same gospel.

Should false doctrine be granted the right to exist, the pure marks of the church no longer hold sway (they are no longer the *fides quae creditur*), and fellowship is broken. For while the word and action of God alone create faith and fellowship, the word and action of Satan destroy both. Just as the creation of church fellowship is not a human decision, but a divine activity, so also the breaking of fellowship is not a human activity, but a satanic activity. In both cases, we can only recognize what has happened.

The reference to Thesis 12 makes clear that an exclusive focus on the means of grace cannot mean the exclusion of the rest of the church’s resultant marks. Rather, Thesis 12 asserts, “In whatever way the fellowship created by Word and sacraments shows itself, all visible manifestations of fellowship must be truthful and in accordance with the supreme demands of the marks of the church.”

The reality by which we see the creation of church and church fellowship is the same reality by which we recognize its destruction, namely, the means of grace, or the *notae ecclesiae*. Hence,

¹⁸ Thesis 6, “Mt 7:15; 16:6; Acts 20:27–30; Rom 16:16–20; Gal 1:8, 9; 5:9; 2 Cor 6:14–18; 11:4, 13–15; Phil 3:2; 1 Tim 1:3, 18, 19; 4:1–3; 5:22; 6:3–5; 2 Tim 2:15–21; 3:5, 8, 9; Titus 1:9, 10; 3:10; 1 Jn 2:18–23; 4:1–6; 2 Jn 8–11. AC VII; SD XI.94–96. The negatives of all the Symbols; AC XXVIII.20–28; Ap VII/VIII.20–22, 48–50; XV.18; SA 2.II.10; Tr 38, 41, 42, 71; Preface to the SD.6–10; X.5, 6, 31. Acts 15; 2 Cor 10:4–6; Eph 4:11–14; 6:17. 1 Cor 1:10; chs 12–14. AC VII.2, 3; Ap IV.231 (110). It is understood that the church takes action through the office of the keys committed to it by Christ (see Thesis 3).”

Impurity can be discerned only by the standard of the pure marks of the church. The subjective faith of any man or group cannot be judged by us, but only what is actually taught or confessed, as it conforms or does not conform to the pure marks.¹⁹

In sum, when the pure marks of the church no longer hold sway, fellowship is broken whether we recognize it or not. Contrariwise, where the pure marks of the church still hold sway, no man ought to sunder what God has joined together—no matter how strained or troubled the relationship is.

This thesis brings us back to the very title of the Overseas Theses, “Fellowship in Its Necessary Context of the Doctrine of the Church.” In order to understand the doctrine of church fellowship, it is absolutely necessary that we begin with the doctrine of the church itself. To begin at any other place, or to make any final pronouncements without the church itself squarely in view, will necessarily lead to confusion about the nature of church fellowship. The risen Lord Jesus is the creator of the church. And he does so through the means of grace, which are co-terminus with the marks of the church. Here and here alone is church fellowship rightly understood and lived out.

The Pure Marks and the Lutheran Confessions

If impurity in the marks of the church destroys fellowship, and only the reassertion of the pure marks restores it, how is purity defined?

The purity of the marks is defined by the Symbols. The Symbols (*norma normata*) as the true interpretation of the Word of God (*norma normans*) are a continuous standard of public teaching in the church from generation to generation and bind together not only all true confessors at any particular time but those of all ages in oneness of teaching (cf. the durative present tenses in “is taught” and “are administered” and also the adverbs “purely” and “rightly” in AC VII). In the Symbols we have a safeguard against those who hold God’s Word to be present only as God wills from time to time, as they are also a safeguard of the truth against reliance upon a traditional exegesis and ecclesiastical success, and against a method of hermeneutics which uses the Bible as a book of oracles to the neglect of the rule of faith.²⁰

¹⁹ Thesis 7, “Jn 8:31, 32; Rom 6:17; 1 Tim 6:13, 20; 2 Tim 1:13 – The passages from the Symbols referred to under Theses 4 and 6.”

²⁰ Thesis 8, “Is 8:20; Mt. 16:16, 17 par; 1 Cor 15:1–5; 1 Tim 6:12–14; 2 Tim 1:13, 14; 2:2; Heb 4:14. AC I; Ap I; AS 1; AC VII: ‘Also they teach that one holy church is to continue forever. The church is the congregation of saints, in which the Gospel is rightly taught and the Sacraments are rightly administered. And to the true unity of the church it is enough to agree concerning the

Precisely because (*quia*) they are “the true interpretation of the Word of God,” the Lutheran Confessions (or “Symbols”) “are a continuous standard of public teaching in the church from generation to generation and bind together not only all true confessors at any particular time but those of all ages in oneness of teaching.” Here is the safeguard against the intermittent and time-bound understanding of the church which was denied in Thesis 3. In the terms of the Nicene Creed, apostolicity is also catholicity.

The Lutheran Confessions are not to be understood in parochial terms either with regard to place or time. They are not merely a sixteenth-century Lutheran take on the Scriptures. They are, rather, “the true interpretation” of Scripture. They are binding upon Christians in every place and time because the Scriptures themselves (*norma normans*) are binding upon Christians in every place and time.

Further, since the means of grace are “a given whole and inseparable from the total revelation of . . . Scriptures” (Thesis 4), the Lutheran Confessions cannot be understood as detracting from Scripture’s teaching. So, while Thesis 8 binds us to the Scriptures by binding us to the historical Lutheran Confessions, Thesis 9 will not allow the Scriptures to be limited by the Confessions.

A quantitative approach is as misleading as an unhistorical one. The inexhaustible wholeness of the marks of the church calls for constant and complete submission and acceptance. The Symbols do not speak fully on every doctrine, but as presentations of the marks they have abiding validity, as have also their rejections of what they recognize as falsifications of or subtractions from the marks.²¹

Just as the rule of faith is immutable across time, it is also indivisible and irreducible. God’s word always requires an “Amen.” Therefore, even though the Confessions “do not speak fully on every doctrine,” this can never justify dismissing any scriptural doctrine as unnecessary. The marks of the church cannot be whittled down. The abiding validity of the Confessions is inclusive, not exclusive.

Here is an indispensable point when challenges to biblical doctrine arise that are not addressed in the Confessions. Subscription to the Lutheran Confessions as *norma normata* will never permit the church to assert that something is an open question by the mere fact that it is nowhere addressed in the Book of Concord. Everything that is addressed in the Holy Scriptures must be included among the pure marks of the church.

doctrine of the Gospel and the administration of the Sacraments.’ See also FC, Rule and Norm; the Prefaces. Mt 10:32, 33; Rom 10:9, 10.”

²¹ Thesis 9, “Mt 23:8; Jn 10:5, 27; 2 Cor 5:18–20 – AS 3.VII; SD X.31; XI.95, 96; XII.39, 40.”

Notae Purae in Actual Practice

Having defined the marks of the church according to the wholeness of scriptural teaching, Theses 10 and 11 next take up the question of how to determine what is actually taught and confessed in a given church body. Thesis 7 has already asserted that such a determination cannot be based on the unseen *fides qua creditur* but only on visible *fides quae creditur*. But how is this known?

The faith which is taught in a church is first of all the formal and official confession of a church. This may, however, be called into question or rendered doubtful by actual or practical negation of it. In that case a distinction must be made between sporadic contradiction and persistent approval or toleration of contradiction. In the latter case, the official confession, no matter how excellent, is negated.²²

“The formal and official confession” of a church body is the primary way for one to know the doctrine that it teaches. When this formal and official confession either explicitly rejects something of God’s word, or explicitly rejects a full, *quia* subscription to the confession of the church catholic (which was defined as Lutheran Confessions in Thesis 8), a power is set up that endangers faith and the church itself while simultaneously contradicting the manifest fellowship. With such a church body, fellowship does not exist, plain and simple.

There is, however, another way in which a church-divisive power may be set up in a church. The formal and official confession may be called into question by a practical negation of it. The word “may” indicates that any and every practical negation of the formal confession does not necessarily call it into question, but only raises the possibility. To determine when and if the formal confession is being denied by actual practice, more information is needed. Here “a distinction must be made between sporadic contradiction and persistent approval or toleration of contradiction.” Only “in the latter case [is] the official confession, no matter how excellent, . . . negated.”

Recall that this is precisely the reason why the Synodical Conference came into existence. While the formal confession of the General Council was accepted, its admission of the Iowa Synod called this confession into question. Would the General Council let the pure marks cleanse out the impurity? Or would they grant it the right to exist? Time would tell. When the false doctrine and practice of the

²² Thesis 10, “For Scripture, see under Thesis 6 and Thesis 8 – SC, Second Commandment and First Petition; End of Preface to the Book of Concord [e.g., 22–24]; SD VII.1; X.5, 6, 10, 11, 28, 29.”

Iowa Synod was approved and defended, the synods of the Synodical Conference had their answer.

By 1961, this was the very same question that had already caused the ELS to leave the Synodical Conference and had the WELS considering the same action. Would Missouri stand opposed to the false practice found in her midst or, by acquiescing, would she grant error the right to exist? That she was taking action in opposition to the false practice is beyond dispute from any quarter. At issue was whether her action was strong enough or swift enough. At any rate, it seems clear that here is where the rubber meets the road for the authors of the Overseas Theses.

Therefore, let us take a moment to understand more fully the distinction between “sporadic contradiction and persistent approval or toleration of contradiction.” Sporadic occurrences can involve either time or place.²³ When a confessional contradiction occurs at random moments of time, but not in the usual course of church life, this is sporadic. On the other hand, even when it regularly occurs, so long as it is isolated to a particular place and is not widespread, this also might be “sporadic contradiction.”

Further clarity is given by way of antithesis. The opposite of “sporadic contradiction” is “persistent approval or toleration.” Persistent can mean either a firm and obstinate continuance or a prolonged continuance of a particular action. Continuance of an action *eo ipso* does not make it persistent. Persistence entails a rejection of correction or the interminable continuance of an action.²⁴ In the usage of Thesis 10, the persistent action may be either approval of a contradiction to the *notae purae* or tolerance of the same.

These two terms raise any number of value judgments. How widespread and how frequent does a contradiction need to be before it is no longer considered “sporadic”? How long must a state of approval or toleration exist before it is “beyond the usual, expected, or normal time”? When does the continuance in error become a rejection of correction?

Here one should recognize that these are questions of pastoral judgment. Churchmen are called upon every day to judge between weakness and obstinance. Pastors have extensive experience in the application of law and gospel. Therefore, to point out these questions should not be read as an attempt to muddy the waters. The mere existence of the questions does not throw us into a morass of uncertainty. On the contrary, it locates us in familiar ground. One need not use the inherent

²³ Sporadic is defined as “occurring occasionally, singly, or in irregular or random instances,” “Sporadic,” Merriam-Webster, updated March 1, 2020, <https://www.merriam-webster.com/dictionary/sporadic>.

²⁴ Persistent is defined as “continuing without change in function or structure,” “Persistent,” Merriam-Webster, updated March 5, 2020, <https://www.merriam-webster.com/dictionary/persistent>.

relative nature of these judgments to excuse any kind of relativism. Rather, the judgments made in these matters are guided by the age-old wisdom of the church.

While the Overseas Theses do not answer questions of scope and office, they do return to the divine boundaries governing these judgments. Whoever makes these judgments, and whatever entities are judged, must do so on the basis of the marks of the church, and only on this basis.

The marks of the church are all-decisive. Everything must be referred to them. This duty is hindered by presumptuous judgments or statements concerning the faith or lack of it in individuals. It is Enthusiasm to build on subjective faith (*fides qua*) and love, for faith is hidden and love is variable. Both are in man. The means of grace are objective, solid, apprehensible. Since these are God's own means, we must attend entirely upon them and draw from them the distinction between orthodox church and heterodox church.²⁵

The judgment that contradictions in practice overthrow a church's formal confession cannot be made presumptuously. This means that they cannot be based on anything internal to man. Faith (*fides qua*) is ruled out since it is hidden in the heart. Love is ruled out since it is variable and imperfect. Fellowship judgments based on factors that are hidden from man and known only to God would fall under the condemnation of every type of enthusiasm.²⁶ "A rupture of fellowship for any other reason [than the marks of the church] is impermissible."

Marks of the Church and Other Visible Manifestations of Fellowship

The final pair of theses is given to address not the inconsistencies in practice, but the open doctrinal disagreement on "prayer fellowship" between the ELS/WELS, on the one hand, and the LCMS/SELC on the other. This is primarily manifested in a congregation's relationship to the Boy Scouts of America.

The fellowship created by Word and sacraments shows itself fundamentally in pulpit and altar fellowship. It can show itself in many other ways, some of which, like prayer and worship and love of the brethren, the church cannot do without; others of which, like the holy kiss or the handshake or the reception into one's house, vary from place to place and from time to time. In whatever way the fellowship created by Word and sacraments shows itself, all visible

²⁵ Thesis 11, "See under Theses 4, 6, 8, 10. Observe that of the abounding polemics in the Book of Concord more than one third is directed against pseudo-Lutheranism."

²⁶ Smalcald Articles III VIII 5, "All this is the old devil and old serpent, who also converted Adam and Eve into enthusiasts, and led them from the outward Word of God to spiritualizing and self-conceit, and nevertheless he accomplished this through other outward words."

manifestations of fellowship must be truthful and in accordance with the supreme demands of the marks of the church. The “sacred things” (*sacra*) are the means of grace, and only by way of them is anything else a “sacred thing” (*sacrum*).²⁷

Here, a distinction is drawn between *sacra* and *sacrum*. By *sacra*, sacred things, we mean only the means of grace, the word and the sacraments. These, and these alone, create the dual fellowship with God and with the brethren. They are constitutive of church fellowship, but they are not the only ways that fellowship is manifested to the world. In creating the church, they also bring about various other “visible manifestations of fellowship.” Prayer, worship, brotherly love, the holy kiss, the handshake, and reception into one’s house can each, individually, be called a sacred thing (*sacrum*) since each is brought about by the sacred things, word and sacrament (*sacra*). But since the word and sacraments alone are foundational, while any other *sacrum* is a part of the edifice built upon the foundation, we should distinguish between the two.

While there are numerous visible manifestations of fellowship, some of which are essential and others variable in time and place, these are not properly numbered among “the marks of the church.”

Prayer is not one of the marks of the church and should not be coordinated with Word and sacraments, as though it were essentially of the same nature as they. As a response to the divine Word, it is an expression of faith and a fruit of the faith, and when spoken before others, a profession of faith. As a profession of faith it must be spoken in harmony with and under control of the marks of the church.²⁸

Those elements of church life that are a response of the saving faith created by God are essentially different than the *notae ecclesiae*, which create faith and are constitutive of the church.²⁹

Prayer has a share in both. While essentially a fruit of faith, it can sometimes be also a profession of faith. Here is the dual reality that comes into play at events like baccalaureates, national holidays, and community gatherings after a disaster. In

²⁷ Thesis 12, “Acts 2:41–47; 1 Cor 1:10; cf. 15:1f; 10:16, 17; 11:22f; 12:13; ch. 14; 2 Cor 8, 9. See also material under 2, 6, and 7.”

²⁸ Thesis 13, “Dan 9:18; Acts 9:11; Rom 10:8–14; 1 Tim 2:1, 2; Acts 27:35 – Ap XIII.16; XXIII.30, 31; LC, Lord’s Prayer.13–30. Also see under Thesis 12.”

²⁹ Christologically speaking, the *genus maiestaticum* might be invoked to explain the difference. While the visible flesh of Christ does, indeed, share in the divinity of Christ’s person, that flesh does not, in turn, communicate its properties to the divine nature. In like manner, the means of grace communicate divinity to the church, but the visible manifestations of fellowship that they create do not, in turn, communicate their essence to the marks.

such settings, prayer must be true and spoken under the control of the marks of the church.

Conclusions

The founders of the Synodical Conference believed that formal subscription and actual practice are inseparable realities. They envisioned a form of synodical fellowship that sacrificed neither doctrinal integrity nor full unity. Her critics considered this vision a pipe dream. They judged that insistence on a consistently faithful practice would inevitably lead to the kind of sectarian spirit evidenced in the incessant fragmentation of American denominationalism. The argument continues to this day.

What the critics predicted did, in fact, come to pass. Were they vindicated by the dissolution of the Synodical Conference in 1961? The Overseas Committee answers this query with a resounding no. They sided neither with the mindset of the General Council, which sacrificed doctrinal integrity for visible unity, nor with the WELS/ELS mindset, which dissolved the conference over questions of the rapidity and effectiveness of disciplinary actions.³⁰ Rather, they charted a way through the troubles that promised to preserve the vision of the Synodical Conference by means of the doctrine of the church.

Until now, their words have not found a hearing. What would be the state of Confessional Lutheranism in North America if the Overseas Theses had been given their proper due? Could the Synodical Conference have survived the crisis that was its undoing? Could it be reconstituted even now? Perhaps recently renewed conversations between our erstwhile partners still hold that promise. Only time will tell. But more immediately, Missouri herself lives in the same existential crisis that undid the Synodical Conference. Some decry our efforts at doctrinal integrity as a pipe dream that only undermines unity in the Gospel, while others are ready to throw in the towel, cease the struggle, and walk away from fellowship with faithful and unfaithful congregations alike.

If the work of our faithful brothers on the Overseas Committee went for naught fifty-eight years ago, can it nevertheless benefit us today? If so, there is

³⁰ The original "Agreement of Missouri and Wisconsin Synods, 1868," stated, "If in the one synod or in the other an error in doctrine should appear, each synod shall be held to remove such error by all means at its disposal. And as long as this is being done, the orthodoxy of the respective synod shall not be questioned." Richard C. Wolf, *Documents of Lutheran Unity* (Philadelphia: Fortress Press, 1966), 182 (as cited by Teigen). But Wisconsin questioned the orthodoxy of Missouri while discipline was being carried out. The focus had shifted from the objective fact of discipline to the subjective judgment of its rapidity.

still more work to do. While the Overseas Theses provide us a sound framework for moving forward, they also leave some key questions unanswered. Is there anything more definite that can be said to define when the pure marks still hold sway and when not? Can we come to a confessionally determined certainty about who should be given responsibility for making that judgment? What exactly does it mean that “Everything must be referred to [the marks of the church]” (Thesis 11)? What does it mean that “all visible manifestations of fellowship must be truthful and in accordance with the supreme demands of the marks of the church” (Thesis 12)?

While the need to answer these and other questions still lies before us, we ought not to let it detract from the great gift we have already been given. The bright light given us in the doctrine of the church and the priority of this doctrine for determining church fellowship are precious treasures that can only become more precious as we ponder their implications. For by them, we are compelled to lift our eyes from anthropocentric efforts to see Christ and his work for the church *extra nos*. Here is always our salvation. To see Christ lifted up on the cross always blesses us, not only personally, but corporately as well, “because we are members of his body” (Eph 5:30).