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“WRITTEN STATEMENT OF THE MATTER IN DISPUTE”:
ADJUDICATION OF ALLEGATIONS AGAINST
Rev. Dr. David Benke
President of the Atlantic District of the LCMS
A three-page summary written by Rev. Wallace Schulz

On September 11, 2001, terrorists attacked the New York World Trade Center twin towers, resulting in nearly 3,000 deaths. In response to the attack, Mayor Rudi Giuliani organized an interfaith prayer service for September 23 designed to bring people of different religious faiths together to pray and worship. Some deny that Yankee Stadium was a worship service. However, Mayor Rudi Giuliani specifically stated that the people and religious leaders of various religions were called together at Yankee Stadium for the specific purpose of worship (See the pre- Yankee Stadium press release, Appendix A).

On September 21, 2001, LCMS President Gerald Kieschnick authorized LCMS Atlantic District President David Benke to participate in the September 23 worship service, a service that included both Christian and non-Christian clerics (See par. 68 of Appendix H).

Shortly after the Yankee Stadium worship service, eighteen LCMS pastors, along with three congregations, began formulating charges against Pastor Benke, stating that he violated the Scriptures, the Lutheran Confessions, and the LCMS Constitution and Bylaws by participating in a worship service that included pagan spiritual leaders.

President Kieschnick and Pastor Benke, along with

some who are responsible for official LCMS publications, have countered the charges of the Complainants saying that the 2001 LCMS Convention delegates, through Res. 3-07A, permitted President Kieschnick to authorize Pastor Benke to participate in the Yankee Stadium interfaith worship service. The question of whether or not the 2001 LCMS Convention Res. 3-07A should have been used to authorize Pastor Benke's participation at Yankee Stadium has become a critical issue in this case.

This report presents three arguments to help understand and settle the Benke/Yankee Stadium controversy. First, in spite of all the information, misinformation, controversy, and confusion regarding Resolution 3-07A passed at the 2001 LCMS Convention, the LCMS still has an official position on church fellowship as noted in Appendix I-2, p. 14, titled "**The Official Position of The Lutheran Church—Missouri Synod on Church Fellowship.**"

After insisting that Res. 3-07A had put the LCMS fellowship position into a state of uncertainty, Pastor Benke told those gathered at the May 21-22 Matthew 18 meeting in St. Louis, "How can you accuse me of violating the position of the Synod if you do not know what the position of the Synod is?" (See Appendix Q, p. 2, the first paragraph of the "Conclusion").

Eight months later, on January 10, 2003, in attempting to instruct the Newark Dispute Resolution Panel how to set the agenda for the hearing, Pastor Benke repeats his wrong understanding that the LCMS has no fellowship position (See Appendix QQ).

So, how do we know with certainty that the LCMS has a fellowship position? Because in Res. 3-07A, immediately after the resolve that Pastor Benke tries to argue placed the

understand the issues and the process of resolution. The Confessions state:

Necessity requires that . . . controverted articles be explained on the basis of God's Word and of approved writings [read here, in context, the accepted Confessions of the Evangelical Lutheran Church] in such a way that anybody with Christian intelligence can see which opinion in the controverted issues agrees with the Word of God and the Christian Augsburg Confession, and so that well-meaning Christians who are really concerned about the truth may know how to guard and protect themselves against the errors and corruptions that have invaded our midst" (Part II. Solid Declaration, Tappert, page 501ff).

other documents such as CTCR opinions have any authority whatsoever, even if they are part of LCMS resolutions.

Thus, the resolution of this case boils down to one section of God's Word where He clearly expresses His will in this matter, Exodus 20:3. "You shall have no other Gods before My face." Once God has expressed His will in the First and most important of all God's Commandments, no other Bible passages are needed. Additional sections of Scripture are included to show that His Word and will, as expressed in the First Commandment, permeates the entire Scriptures on this matter. See also God's will in Exodus 20:7; 1 Corinthians 10:14-22; 2 Corinthians 6:14-18; Titus 3:10; John 14:6; Acts 4:12.

The Lutheran Confessions, which are not additions to God's Word but rather documents which help us to understand and teach what we believe from the Scriptures, are especially helpful in the Benke/Yankee Stadium controversy. Regarding matters such as the controversial three paragraphs under "Cases of Discretion" in the CTCR Report, the Confessions warn against "yielding and conforming in external things where Christian agreement in doctrine has not previously been achieved [such as the 'Cases of Discretion'] . . ." (Formula of Concord, Solid Declaration, X, 16). This warning of the Confessions is especially important in this case since the "Cases of Discretion" paragraphs have never been discussed throughout the Synod, in any forum, and not even at the District Conventions where the main study document was discussed.

Finally, and most importantly, in matters of dispute, the Lutheran Confessions remind all of us to keep things simple, Bible-based, and clear, so that the average person can

LCMS's historic fellowship position in flux and uncertainty, the very next resolve states "Resolved, That the Synod reaffirm once again its position on joint worship..." This unchanged and reaffirmed position is stated twice in the CTCR document, "The Lutheran Understanding of Church Fellowship," first on page 14 and again on page 33 (See Appendix I2). This reaffirmed position on fellowship clearly forbids what Pastor Benke did when he participated in prayer and worship with pagan clerics in Yankee Stadium.

The second main argument in this report deals with the correct understanding of Res. 3-07A, a resolution passed by the delegates to the 2001 LCMS Convention. Resolution 3-07A commended two CTCR documents, the first called "The Lutheran Understanding of Church Fellowship," included in Appendix I-2; and the second "A Report On Synodical Discussions" included in Appendix I-3.

Pastor Benke, President Kieschnick, and Dr. Nafzger argue that by "commending" these two CTCR documents, the LCMS delegates thereby authorized all that is contained in the documents, including "Cases of Discretion" for immediate application, such as in the Benke/Yankee Stadium situation. However, this report argues just the opposite. The 2001 LCMS Convention delegates did not "commend" the CTCR Documents, (especially the "Cases of Discretion" in the Report) for immediate application. Rather, the delegates commended the documents "for continued use and guidance [in ongoing discussions in the LCMS on fellowship] in order to build unity where it is still lacking."

Rev. Roger Gallup, secretary to the LCMS Convention Floor Committee on Theology and Church Relations, the group that brought Resolution 3-07A to the convention delegates for a vote, wrote: "The Resolve calls for the document to continue to be used as it had previously, AS A

STUDY DOCUMENT that the church would continue to use in guiding our discussions over the issue of church fellowship.” Pastor Gallup here stresses that the “commending” of these two documents “for continued use and guidance” did not in any way mean that these two documents (especially the “Cases of Discretion”) were commended for immediate application and implementation, but only for “continued use and guidance [in fellowship discussions] to build unity [in the LCMS] where it is still lacking.”

The third major argument set forth in this report is: Even if one were to “stretch” the meaning of LCMS Convention Resolution 3-07A to claim that the delegates commended the two CTCR documents, not just for discussion, but for immediate application, then there is an even greater problem. In order to insure that all preaching, teaching, and relationships with one another are guided by God’s Word and will, the fathers of the LCMS placed in the Constitution a very special article, Article XIII. This article, titled “Expulsion from the Synod,” states specifically in its first point that, if anyone is to be expelled (or retained) from membership in the LCMS, this is to be done on the basis of the Word of God and the Lutheran Confessions. No other documents are to be used in the process of expulsion or retention of an LCMS member, including Synodical resolutions, CTCR opinions, etc.

This is to say that, even though much time and effort continues to be expended in arguing whether, or how, Res. 3-07A applies or does not apply, to the Benke/ Yankee Stadium case, the LCMS Constitution sets aside all these arguments and resolutions and CTCR documents, and points the disputants to the Word and will of our gracious God.

Thus, since the second of the two “commended documents,” the CTCR Response/Report was only a compilation of what was discussed at LCMS District conventions, often under difficult time constraints; and, since new ideas in the “Cases of Discretion” were not even discussed at any of the LCMS District Conventions, it is overwhelmingly obvious that, if it was not totally wrong, it was at least very unwise, to apply these untested ideas in highly controversial situations such as Benke’s participation at Yankee Stadium especially since both President Kieschnick and Pastor Benke knew beforehand that their application would be highly controversial and even divisive.

In order to understand this case (which may initially seem to be quite complex), the panel is encouraged, at the outset, to examine the following visuals:

- a) **Appendix A**, which immediately shows that the Yankee Stadium activity was a worship service designed to bring together Christians and non-Christians for the purpose of worshipping together.
- b) **Appendix O**, a visualization and explanation of LCMS Resolution 3-07A and notes on this resolution relating to the controversial three paragraphs in the “Cases of Discretion.”
- c) **Appendix NN**, which shows that when the discussion of this matter is finished and a decision is made, according to Article XIII of the LCMS Constitution, this entire matter must be judged only and alone by the Word of God and the Lutheran Confessions. No