

From a Field of Dreams to a Fortress of Bylaws: How We Got to Our Current System--and How to Fix It

Charles Henrickson, ACELC Conference, April 26, 2016

On the afternoon of Sunday, September 23, 2001, I was flipping around on the television, trying to find a baseball game to watch. I came across one channel that showed a baseball stadium on the screen, but it wasn't a baseball game that was being played there that day. The place was Yankee Stadium in New York, and I quickly saw that it was an interfaith prayer service that was being held. I had heard and read about interfaith prayer services before. I had seen one on TV at Washington National Cathedral some days earlier. This was now September 23, twelve days after 9-11, and now another interfaith service was being held, this one at Yankee Stadium. I knew enough about interfaith services to know that they were bad news, really lame, politically correct, and that we weren't supposed to do them, since they gave the impression that all religions lead to God. So as I soon moved on to another channel, I thought to myself, "Boy, I'm glad that our guys don't do these kinds of services."

Later that evening, though, I found out that indeed one of our guys did do that kind of service. And that was the beginning of an odyssey that led to where we are today and to the topic of this conference. And so my presentation now, which I'm calling, "From a Field of Dreams to a Fortress of Bylaws: How We Got to Our Current System--and How to Fix It."

So on that afternoon I thought nothing more about the interfaith service I scanned by on the way to finding a baseball game. Until that evening, when I got on a pastors' email discussion list--this was back in the days before Facebook--and I saw on this email list that one of our guys did participate in this interfaith prayer service at Yankee Stadium. I found out that it was David Benke, not just your average run-of-the-mill LCMS pastor, not some unknowing rookie, but the president of one of our LCMS districts, the Atlantic District. I also found out that this fellow Benke had done this sort of thing before, participate in an interfaith service. I was appalled. I told the other pastors on the e-list: "Gentlemen, this is the hill to die on. This kind of thing cannot stand." I knew that night that this would be the biggest controversy in our synod since the Walkout of 1974.

So I looked around on the internet to see if this Yankee Stadium prayer service could be seen online. It could. I watched it. I was even more appalled. The service was called "A Prayer for America." Oprah Winfrey, the high priestess of American New Age religion, was the mistress of ceremonies. A large group of clergypersons were seated together on the stage, along with some political figures. This long succession of clergypersons came up, each doing his or her thing--Jewish, Roman Catholic, Sikh, Muslim, Protestant, Eastern Orthodox, Hindu--each contributing to the notion that all roads lead to God. In other words, a typical interfaith prayer service. What made this one a little different was that some political figures and entertainers also spoke or sang at the service. Still, it was clearly an interfaith prayer service, mixed with some civic elements.

I especially wanted to hear what our guy, David Benke, had to say. He was introduced by the Rev. Calvin Butts, a Baptist minister who had just given a homiletical reflection: "And now I want to bring to you the Rev. Dr. David Benke, who is President of the Atlantic District of the Lutheran Church, the Missouri Synod."

President Benke then began by saying: "Oh, we're stronger now than we were an hour ago. And you know, my sisters and brothers, we're not nearly as strong as we're going to be. And the strength we have is the power of love. And the power of love you have received is from God, for

God is love. So take the hand of one next to you now and join me in prayer on this 'field of dreams' turned into God's house of prayer."

Benke said that they were "stronger" after the series of religious rites by the various clergypersons of different religions that had happened thus far. He directed the whole assembly, comprised of adherents of these different religions, to join him in prayer on what he called a "'field of dreams' turned into God's house of prayer."

Then came Benke's prayer itself: "O Lord our God, we're leaning on You today. You are our Tower of Strength, and we're leaning on You. You are our Mighty Fortress, our God who is a Rock; in You do we stand. Those of us who bear the name of Christ know that You stood so tall when You stooped down to send a Son through death and life to bring us back together, and we lean on You today. O Tower of Strength, be with those who mourn the loss of loved ones; bring them closer to us day by day. O Heavenly Father, we pray at this time that You might extend Jacob's ladder for those who ascended the stairways to save us, as others escaped the fire and flames. O Tower of Strength, open innocent and victimized hearts to the sacrifice of the Innocent One; pour Your consolation upon the traumatized, especially our children. O Heavenly Father, un-bind, un-fear, un-scorch, un-sear our souls; renew us in Your free Spirit. We're leaning on You, our Tower of Strength. We find our refuge in the shadow of Your shelter. Lead us from this place--strong--to bring forth the power of Your love, wherever we are. In the precious name of Jesus. Amen."

This prayer was very weak. Nothing about the exclusivity of salvation in Christ. "Those of us who bear the name of Christ" might know this or that, but nothing about the objective truth of who Christ is and what he has done. God sent "a" Son, not "the" Son. A prayer for God to save those who died ascending the stairways. Vague references to Christ. A very weak prayer at best. And this in the context of multiple religions all participating in the same service. So it wasn't just the weakness of the prayer that was the problem. It was Benke's participation at all in an interfaith service, which undergirded the impression that all roads lead to God.

So I transcribed Benke's words, what he actually said, straight from the video. However, Benke posted a different version of his words, a little cleaned up, on his district's website, and that was the version that LCMS President Kieschnick also used, instead of the accurate transcription that I sent to them both. All this was troubling.

The next day, September 24, I sent the following letter to President Benke, LCMS President Jerry Kieschnick, and the Vice-Presidents of the Synod: "Dear sirs, In regard to President Benke's participation in the New York City Prayer Service on Sunday, September 23, 2001: This is the clearest case of, not merely unionism, but downright syncretism in the history of our synod! And on a grand scale, with millions watching! The gospel is not served, it is not confessed--indeed, the gospel is eviscerated!--when Jesus Christ is presented as one of many options from which to choose on a smorgasbord of 'spirituality.' This has always been our synod's confessional position. If President Benke's participation in this service is not grounds for his removal, especially in light of his 'previous offenses,' I don't know what is. If President Kieschnick does not seek to remove him from office, then I can only conclude that he is in agreement with him. If this most blatant act of unionism/syncretism is allowed to stand, then the floodgates will be opened and we become indistinguishable from the mainline liberal denominations. A weak 'apology' ('I'm sorry if some of you misunderstood my actions') will not do. This calls for removal from office. We must not let this slide. On the next page is the documentation of President Benke's participation. For the sake of the clear confession of the gospel of Christ, The Rev. Charles Henrickson."

So Benke, Kieschnick, and the Praesidium all had this information and documentation within 24 hours after the event. Was anything done? You know the answer. Benke and Kieschnick dug in.

Now a little more context. I made reference in that letter to Benke's "previous offenses." What was that about? It goes back a few years earlier, to September of 1998. At that time, President Benke likewise participated in an interfaith prayer service in New York City. The president of the Synod at that time was Al Barry. Barry admonished Benke about his participation in that service, and on October 22, 1998, Benke issued the following statement: "On September 9, 1998, I participated in an interfaith prayer service for the poor entitled: 'Lift Up the Poor With the Voices of Faith.' The service included representatives of non-Christian religions, and also representatives of Christian churches with which our Synod is not in fellowship. My participation in this service was a direct violation of the Holy Scriptures and the Lutheran Confessions, and consequently, violation of the Constitution, Bylaws and doctrinal resolutions of The Lutheran Church–Missouri Synod. I also recognize that my participation in this interfaith prayer service was a violation of my duties and responsibilities as an elected officer of The Lutheran Church-Missouri Synod. While well-intended, what I did was wrong. I therefore sincerely and publicly apologize to the Synod for my actions in this connection. I assure the Synod that I will not repeat this error in the future by participating as an officiant in ecumenical services."

Well, but then he did, three years later. What was different between 1998 and 2001? In September of 1998, the president of the Synod was Al Barry. In September of 2001, the newly installed president of the Synod was Jerry Kieschnick.

Also in my letter, as well as in Benke's 1998 apology, are the terms "unionism" and "syncretism." "Unionism" in this context means participation in a service with representatives of Christian churches with which our synod is not in fellowship. "Syncretism" means participation in a service with representatives of non-Christian religions. To engage in either has always been a violation of our synod's Constitution, which states in Article VI, as a condition of membership, "Renunciation of unionism and syncretism of every description." Certainly both the interfaith service of 1998 and the interfaith service of 2001 fit the description of unionism and syncretism. So in spite of his 1998 assurance to the Synod that he would not repeat his error, David Benke did. And now, instead of Al Barry admonishing him, he had Jerry Kieschnick enabling him.

In the days after Yankee Stadium, I did further research and sent further documentation and argumentation to President Benke, President Kieschnick, and the LCMS Praesidium. Still Benke and Kieschnick would not budge. Some weeks later a number of pastors and congregations filed complaints against Benke, under the dispute resolution bylaws that were then in place, the result of a 1992 Handbook revision. Note, Benke had plenty of time, a number of weeks, to apologize or acknowledge his error before any complaints were filed. But he did not do so. Instead, he doubled down on defending what he had done. And so complaints were filed. A total of twenty-one members of Synod filed complaints against Benke, eighteen pastors and three congregations.

Because Benke was a district president, this matter came to the attention of Synod President Kieschnick, his immediate ecclesiastical supervisor. President Kieschnick wanted to be the one to rule on the Benke case, but Kieschnick himself had previously approved and defended Benke's participation in the interfaith service, so he was part of the matter at controversy. Even so, Kieschnick still wanted to be the investigating officer. But on January 30, 2002, the Synod Praesidium, made up of the Synod President and the five vice-presidents at the time--a majority of the Praesidium voted that President Kieschnick should be recused from the case, because he was

a party in it. So the matter then fell to the Synod Vice-Presidents to investigate. First Vice-President Daniel Preus had already made a public statement on the case, saying that Benke should not have done this. So the assignment of handling the Benke case fell to Vice-President Wallace Schulz to be the investigating officer.

Now while this case was being handled, the rule under the bylaws was that all parties involved were not to comment publicly on the case. The twenty-one complainants did abide by this rule. However, Presidents Benke and Kieschnick did not. They did continue to comment publicly, and repeatedly, defending their side in the matter.

So Vice-President Schulz gathered information, heard from witnesses, looked into the Constitution and Bylaws, and eventually issued his ruling. On June 25, 2002, Vice-President Schulz suspended Benke on the grounds that he had engaged in unionism and syncretism, thus violating our synod's constitution. Remember, one of the conditions of membership in our synod, according to Article VI, is renunciation of unionism and syncretism of every description. And Article XIII, Expulsion from the Synod, states that members who act contrary to "the conditions of membership laid down in Article VI or persist in an offensive conduct shall, after previous futile admonition, be expelled from the Synod."

At this point in the process, then, Benke was suspended as Atlantic District president. Then the case was appealed. It would go to a dispute resolution panel. According to the 1992 process that was then in place, a dispute resolution panel is made up of three persons who are reconcilers who hear the matter in dispute and render a final decision.

On April 10, 2003, the dispute resolution panel ruled: On the basis of the testimony and evidence received, the Panel concludes that there is not sufficient reason or evidence according to the Synod's Constitution and Bylaws for suspending Rev. Benke. Therefore, the Panel concludes that the decision of Rev. Schulz for expulsion of Rev. Benke under Article XIII of the Constitution of the Synod is not substantiated. The suspension of Rev. Benke is lifted and his LCMS membership in good standing is continued." The panel decided that way because a) Benke had the approval of his ecclesiastical supervisor, namely Kieschnick, and because b) the Yankee Stadium event was, in their opinion, a "civic event." So Benke was off the hook.

Now this whole case brings up the bylaws that were in place in 2001. As I say, those were the result of a revision to the Handbook that happened in 1992. What had happened between the 1989 Synod convention and the 1992 Synod convention to cause the Bohlmann administration to want a revision to the bylaws? It was the Robert Preus case, which had been handled under the then-prevailing system of adjudication. The Bohlmann administration did not want a repeat of that, thus the 1992 revision that gave us the dispute resolution process.

The dispute resolution process is based on a questionable premise. It assumes that matters in controversy are matters of a personal dispute and are to be handled privately. But the Benke case was not a personal dispute, and his participation in the Yankee Stadium prayer service was not private, it was broadcast on national television. The dispute resolution process states that members of Synod are urged to reject a "win-lose" approach. But in a matter in which one side is guilty of public error in doctrine or practice, and persists in it, that side ought to "lose." In these cases it is not a "win-win" proposition.

And to speak out publicly against a public error is not a violation of the Eighth Commandment. In our Lutheran Confessions, in the Large Catechism under the Eighth Commandment, Luther writes:

“All this has been said about secret sins. But where the sin is quite public, so that the judge and everybody know about it, you can without any sin shun the offender and let him go his own way, because he has brought himself into disgrace. You may also publicly testify about him. For when a matter is public in the daylight, there can be no slandering or false judging or testifying. It is like when we now rebuke the pope with his doctrine, which is publicly set forth in books and proclaimed in all the world. Where the sin is public, the rebuke also must be public, that everyone may learn to guard against it.”

Well, so now in 2003, Benke had been suspended, Benke had now been restored. But how to avoid a repeat of this unpleasant process? We can't have a bunch of peon pastors bringing complaints against a district president, a member of the Council of Princes! Just as the Robert Preus case led to the 1992 revision to the bylaws, so now the Benke case would lead to another revision to the bylaws. The next convention would be in 2004, and that's when the Kieschnick administration advanced changes to the dispute resolution process that would make it harder to initiate complaints like we had in the Benke case. This then resulted in what I call the Benke Protection Act of 2004.

Now, in order for a complaint to go forward, it would have to be green-lighted by the district president of the complainant. These are the bylaws we have now. It is much harder now to get a case going, as was done in 2001. Thus, as a result of the Yankee Stadium prayer service and the Benke case that followed, we have gone--as the title of this presentation suggests--we have gone “From a Field of Dreams to a Fortress of Bylaws.”

So that's how we got to our current system. Now how to fix it? First, I must say that there is no silver bullet. Any revision to the bylaws that we make, there will always be ways for people to game the system and work around it. This does not mean we should not try to improve the system. We should. But that alone will not somehow magically give us a pure system where all error and errorists will be instantly removed.

A more global, big picture needs to be addressed. That is broader, and it will take longer. It means putting people into the ministry and into offices of ecclesiastical supervision who are more likely to do the right thing. One of my favorite sayings in Latin is “Quis custodiet ipsos custodes?” Translated, that is, “Who will guard the guards themselves?” “Quis custodiet ipsos custodes?” In this case, “Who will supervise the supervisors themselves?” When the foxes are in charge of the henhouse, it's not a bright prospect for the hens. So let's try not to elect foxes. That would help.

Getting both seminaries on the same page, so that they are turning out the same product, and that continues for about twenty years--that would be great. It would go a long way toward unifying our synod. If both seminaries and all the pastors and all the district presidents and the synod's president and vice-presidents, if we all are on the same page theologically, we don't have these kinds of problems occurring--the Benke case, the Becker case. So that's the big picture, but it will take time, it will involve electing people who will move us in the right direction, at the seminaries and at the synod level, and it will be more gradual.

In the meantime, there are some changes we could make to improve the system we have in place now. That brings up what will happen at our synod's convention in Milwaukee in July. The Convention Workbook just came out, and it includes a number of overtures on dispute resolution, as well as a report and recommendations from a task force on dispute resolution. Let's talk about these, shall we?

Here is one overture that was submitted to the Convention Workbook. It was submitted by my congregation, St. Matthew-Bonne Terre, Missouri, and it is in the workbook as Overture 12-17, "To Revise Dispute Resolution Bylaws to Involve the Synod President": "WHEREAS, the Synod President is our Synod's chief ecclesiastical supervisor, whose duties include 'supervision regarding the doctrine and the administration of' the districts and district presidents of the Synod (Constitution, Article XI); and WHEREAS, concerns have been raised regarding the effectiveness of dealing with cases of doctrinal discipline at the district level under our current Dispute Resolution bylaws; therefore be it *Resolved*, that the Dispute Resolution bylaws be revised to authorize explicitly the Synod President to call up for theological review all panel decisions related to doctrine and practice." What this overture would do is to enable the Synod President to rectify a wrong-headed dispute resolution panel decision. This would have helped in the Becker case.

There are at least a dozen overtures in the workbook, under Committee 12, related to the dispute resolution process. I have not yet had time to read them all, but I recommend that we do read them. Of course, all of these overtures will go into the floor committee blender and come out as who-knows-what in the Today's Business when it is published in June.

What is likely to see the light of day is the report of the Task Force on Dispute Resolution, chaired by Secretary Ray Hartwig. You'll find it in the workbook on pages 297-307. Among the proposals of this task force are revisions to the bylaws "to expedite and provide uniformity throughout the Synod dispute resolution and suspension/expulsion processes." This would speed up the time frames, so that cases do not drag on forever without any action being taken. There is another proposal "to provide further clarification of the ecclesiastical supervisory responsibilities of the President of the Synod as district presidents carry out the President's ecclesiastical supervisory duties." This would make a district president more explicitly responsible to the President of the Synod "for the manner in which he carries out his ecclesiastical supervision." This too would have helped in the Becker case. Another proposal would "include under the President's ecclesiastical powers and duties the responsibility for reviewing panel decisions in the Synod's dispute resolution and expulsion processes." This would authorize the Synod President to review dispute resolution panel decisions that have theological content bearing on doctrine and practice. Again, this would have helped in the Becker case.

These are a few of the recommendations of this task force. I encourage us all to read the whole report, as well as the relevant overtures in the workbook and to give your feedback to the floor committee before they meet to propose resolutions in the Today's Business. Then when Today's Business comes out, I encourage you to continue to give your input to Floor Committee 12.

"From a Field of Dreams to a Fortress of Bylaws: How We Got to Our Current System--and How to Fix It." The Preus case led to the 1992 revisions in the bylaws, moving from adjudication to dispute resolution. The Benke case led to what I call the Benke Protection Act of 2004, that is, the "Fortress of Bylaws" we now have, which makes doctrinal discipline more difficult to achieve. The question now is, Will the Becker case lead to revisions for the better in 2016? We will see.