

LATE REPORT

The following report (LR8-01) was received after the deadline for receipt of reports and overtures but has been accepted for convention consideration according to Bylaw 3.1.6 (a) as “a matter of overriding importance and urgency which is not adequately covered by documents already before the convention.”

LR8-01

Resolution 7-02A Committee

Introduction

The 2004 convention of The Lutheran Church—Missouri Synod created the Resolution 7-02A Committee. With the adoption of Resolution 7-02A (the full text is in *Appendix A* of this report), which included amendments to the Synod’s Articles of Incorporation and Bylaws, the Synod said,

...*Resolved*, That the convention consider this action as resolving the current difficulty but directs the President and Board of Directors jointly to appoint a committee to address the matter and report to the 2007 convention;...

As indicated in that *Resolved* and as will be seen in this report, the 2004 convention recognized the difficulty and confusion that prompted the presentation of Resolution 7-02A. In adopting the resolution, the convention resolved “the current difficulty” by amending the Articles of Incorporation and Bylaws of the Synod. It also created the 7-02A Committee to “address the matter and report to the 2007 convention....”

“The matter” is explained in the WHEREAS section of Resolution 7-02A. Furthermore, “the matter” relates to questions that arose and subsequent actions that were taken during the triennium preceding the 2004 convention that involved the authority and responsibility of the Synod’s Board of Directors (“the Board”) as defined by the Constitution and Bylaws of the Synod and by the laws of the State of Missouri. Similarly, “the matter” has to do with whether official opinions of the Synod’s Commission on Constitutional Matters (“the Commission”) having to do with such authority and responsibility of the Board under the Constitution and Bylaws of the Synod were authoritative in light of the laws of the State of Missouri.

The 7-02A Committee

Following the convention, the President of the Synod and the Board of Directors reached agreement on the composition of this Resolution 7-02A Committee, to include the Administrative Team of the Synod (President, First Vice-President, Secretary, Vice-President–Finance–Treasurer, and Chief Administrative Officer) and representatives from the Board of Directors (2), the program boards and commissions of the Synod (2), and the Council of Presidents (2)—one each of these representatives to be appointed by the President and one each by the Board of Directors. The following persons served on the “7-02A Committee”:

1. Gerald Kieschnick, President of the Synod

2. William Diekelman, First Vice-President of the Synod
3. Raymond Hartwig (secretary), Secretary of the Synod
4. Thomas Kuchta, Vice-President–Finance–Treasurer of the Synod
5. Ronald Schultz, Chief Administrative Officer of the Synod
6. Jean Garton, member of the Board of Directors, appointed by the President
7. Walter Tesch (chairman), member of the Board of Directors, appointed by the Board of Directors
8. Robert Roegner, Executive Director of the Board for Mission Services, appointed by the President
9. Matthew Harrison, Executive Director of the Board for Human Care Ministries, appointed by the Board of Directors
10. Lane Seitz, President of the Minnesota South District, appointed by the President
11. Ronald Garwood, President of the Wyoming District, appointed by the Board of Directors

The appointment process was completed by March 5, 2005. The 7-02A Committee met for the first time August 31, 2005, and thereafter by subcommittee, telephone conference, and face-to-face meetings. At its final meeting on April 13, 2007, the 7-02A Committee approved this report to the 2007 convention of the Synod. The committee respectfully submits this report in the hope and with the prayer that it will provide a reasonable solution and helpful assistance to the Synod in resolving conflict and confusion over “the matter” addressed in Resolution 7-02A.

A Summary of “The Matter”

To assist the Synod and especially the delegates to the 2007 convention, the committee offers what it believes to be a succinct summary of the essence of “the matter” to be addressed by the 7-02A Committee:

1. The essence of “the matter” relates to the delegation and exercise of authority in our Synod. The LCMS has never had a primarily hierarchical system of authority. Checks and balances have always been an integral part of the organization and administration of the LCMS. Its system of governance historically and traditionally includes boundaries that all, including officers of the Synod such as the Board of Directors, must honor and uphold. At the same time, there are decisions to be made and actions to be taken by officers, boards, or other entities within the Synod that have potential or real legal and/or liability implications. In such cases, what responsibility and/or authority does the Board of Directors have to overrule a decision or action in order to protect the Synod and its assets? This is the essence of “the matter.”
2. The Bylaws describe the authority and responsibilities of the Board of Directors, especially Bylaws
• 3.3.5: “The Board of Directors of the Synod is the legal representative of the Synod and the custodian of all the property of the Synod. It shall be accountable to the Synod in convention for the discharge of its duties.”

- 3.3.5.2: “The Board of Directors shall have the powers and duties that have been accorded to it by the Articles of Incorporation, Constitution, Bylaws, and resolutions of the Synod, and the laws of the State of Missouri.”

- 3.3.5.4: “The Board of Directors shall be responsible for the general management of the business and legal affairs of the Synod and shall be authorized to take on behalf of the Synod any action related to such business and legal affairs which has not been expressly delegated by the Constitution, Bylaws, and resolutions of the Synod to other officers or agencies of the Synod, and as to those shall have general oversight responsibility.”

- 3.3.5.5 (a) (2): “It shall have the right to call up for review and criticism, and to request modification or revocation of, any action or policy of a program board, commission, or council, except opinions of the Commission on Constitutional Matters.”

- 3.3.5.7: “The Board of Directors shall serve as the custodian of all the property of the Synod as defined in Bylaw 1.2.1 (m). Except as otherwise provided in these Bylaws, it shall have the authority and responsibility with respect to the property of the Synod as is generally vested in and imposed upon a board of directors of a corporation.”

“The matter” at issue is: Does the authority granted or not granted to the Board by these bylaws conflict with the laws of the State of Missouri?

3. “The matter” includes the very important question: Who has the authority to decide, when or if there is disagreement, where certain boundaries of authority begin and end? These questions include, but are not limited to, the following:

- Are there conflicts between the authority and responsibility of the Board of Directors defined by the Constitution and Bylaws of the Synod on the one hand and those provided by the laws of the State of Missouri on the other hand?

- Who determines the boundaries of the authority of the Board of Directors when disagreement exists over whether a matter to be decided pertains to secular or ecclesiastical or property or business or legal affairs?

4. Bylaw 3.9.2.2 of our Synod’s 2004 *Handbook* states:

The Commission on Constitutional Matters shall interpret the Synod’s Constitution, Bylaws, and resolutions upon the written request of a member (congregation, ordained or commissioned minister), official, board, commission, or agency of the Synod....

(b) An opinion rendered by the commission shall be binding on the question decided unless and until it is overruled by a convention of the Synod....

Does the authority granted by the Bylaws of the Synod to the Commission on Constitutional Matters conflict with the laws of the State of Missouri pertaining to the authority of the Board of Directors?

5. As noted in these bylaws, the Commission is charged with interpreting all the governing documents of the Synod except the Articles of Incorporation but has no such charge to interpret the laws of the State of Missouri. Meanwhile, the Board is accorded “the powers and duties” granted not only by the governing documents of the Synod, but also by the laws of the State of Missouri. Yet the Board is not authorized by the governing documents of our Synod to challenge opinions of the Commission, which is not authorized to interpret state laws. Do state laws for not-for-profit corporations, under which the Synod has voluntarily placed itself, convey to the Board “powers and duties” that supersede

those conveyed by the Articles of Incorporation, Constitution, and Bylaws of the Synod? Therein lies the source of much of the confusion and conflict addressed by Resolution 7-02A and by this report of the 7-02A Committee.

The 2004 convention in Resolution 7-02A retained the authoritative nature of Commission on Constitutional Matters opinions, including those rendered on questions dealing with powers and duties of the Board of Directors. Yet it recognized the difficulty and confusion that exists and asked this committee “to address the matter and report to the 2007 convention.”

A Brief History

The Board of Directors had taken certain actions as it endeavored to carry out its responsibilities that it believed were in concert with, and required by, the Constitution and Bylaws of the Synod and the laws of the State of Missouri. Some members of the Board and other individuals in the Synod took issue with certain board actions. Questions regarding these matters were submitted to the Commission on Constitutional Matters.

Several of the opinions rendered by the Commission reversed and/or nullified Board actions, raising questions regarding the authority of the Commission over against the authority of the Board in light of Missouri law for not-for-profit corporations. The Board disagreed with and challenged some Commission opinions, declaring them “of no effect.”

In July 2003, the Executive Committee of the Board of Directors requested an opinion from an outside law firm (Bryan Cave) regarding the Board’s authority under Missouri law. The Bryan Cave opinion articulated an understanding of the authority of the Board of Directors of the Synod more similar to that of a corporate board of directors than has generally been understood to be the historic polity reflected in the governing documents of our Synod.

The conclusions of the Bryan Cave opinion were challenged by individuals in the Synod, prompting the Board to request an opinion from a second outside law firm (Armstrong Teasdale). The second opinion was generally, but not identically, in agreement with the first. Subsequently, unsolicited extensive legal perspectives were offered by three individual attorneys, followed by briefer perspectives from a number of other attorneys, all of which were not in agreement with, differed sharply from, and questioned the validity and accuracy of the Bryan Cave and Armstrong Teasdale opinions.

Confusion, disagreement, and significant tension developed in the Synod and resulted in the submission of a number of overtures to the 2004 convention of the Synod. The President of the Synod also issued a Special Report to the 2004 LCMS convention titled: “LCMS Board of Directors and Bylaws Regarding Opinions of Commission on Constitutional Matters.” This report is referenced in a WHEREAS paragraph of Resolution 7-02A.

These documents, in addition to the research of Floor Committee 7 of the 2004 convention and advice from the Synod’s general legal counsel at that time (Stolar Partnership) contributed to the floor committee’s drafting and the convention’s subsequent adoption of Resolution 7-02A. Neither the floor committee nor the convention had access to

the outside legal opinions requested by the Board of Directors. The convention also was not made aware of the contribution of the 1995 Blue Ribbon Task Force that specifically put into place some of the bylaw provisions for which change was being proposed, those provisions to clarify Board of Directors authority, especially in its relationship to corporate Synod boards and commissions.

In adopting Resolution 7-02A, the convention:

1. Amended the Articles of Incorporation of the Synod, especially "Article V Officers," specifically limiting Board of Directors authority and duties to the extent that they are delegated by the Constitution and Bylaws to other officers and agencies;
2. Amended Bylaw 1.07 c [current Bylaw 1.4.4] regarding the responsibilities and authority of the Board of Directors and the delegation of authority and duties by the Articles of Incorporation, Constitution, Bylaws, and resolutions of the Synod to other officers and agencies;
3. Amended Bylaw 3.51 c [current Bylaw 1.2.1 (c)] regarding the definition of "corporate Synod" to acknowledge the Synod's "responsibility to be subject to civil authority" while also retaining "all authority and autonomy allowed a church under the laws and Constitution of the United States and the State of Missouri";
4. Amended Bylaw 3.183 d 2 [current Bylaw 3.3.5.5 (a) (2)] regarding Board of Directors authority with regard to actions or policies of a program board, commission, and council; and
5. Amended Bylaw 3.905 [current Bylaw 3.9.2.2 (b)] regarding Commission on Constitutional Matters functions, requiring the Commission's consultation with the Board of Directors or legal counsel when providing opinions pertaining "primarily to business, legal, finance, civil rights, contracts, or property matters."

In addition, the convention adopted Resolution 7-21, which approved an amendment to paragraph 2 of Article XI F of the Synod's Constitution. In accordance with the provisions of the Constitution of the Synod relative to making amendments thereto, the proposed amendment was submitted to the voting congregations of the Synod for ratification. In writing, both the chairman of Floor Committee 7 of the 2004 convention and also the Board of Directors advised the congregations of the Synod regarding this constitutional amendment. The floor committee chairman encouraged ratification of the action (approved by 70 percent of the voting delegates) and the Board of Directors discouraged ratification of this constitutional amendment (adopted without debate), both offering opposing viewpoints about its effect on the authority of the Board of Directors. The amendment failed to receive the required two-thirds majority of the congregational votes cast and thus was not ratified.

Following its formation after the 2004 convention, the 7-02A Committee sought and received advice from current legal counsel (Thompson Coburn). This opinion, in general agreement with the Bryan Cave and Armstrong Teasdale opinions, acknowledges the absence of not-for-profit Missouri case law but references case law from other states. It identifies the principles most likely to be followed by Missouri courts and advises that the 2007 convention of the Synod take certain actions essentially to reverse a number of the actions taken by the 2004 convention in Resolution 7-02A.

The 7-02A Committee carefully considered this advice, recognizing that many in the Synod, including delegates to both the 2004 and the 2007 conventions, could be confused by what basically amounts to two consecutive conventions coming to two different conclusions on the same topic. Such confusion would not be minimized by decisions made at the convention primarily on the basis of the reception of conflicting advice from two different law firms representing the LCMS, both of which were properly chosen at different times to provide legal counsel to the Synod.

A Desire for Clarity and Consensus

The committee sincerely desires to provide the Synod, especially the delegates to the 2007 convention, with as much clarity regarding "the matter" to be addressed by the committee as possible. In addition, the committee sincerely desires to present proposed solutions to resolve the issues still in question in a way that takes into consideration and is sensitive to the perspectives of key leaders of the LCMS. In that regard, before finalizing its report, the committee felt it both necessary and appropriate to seek input and counsel from the following:

- The Board of Directors
- The Council of Presidents
- The Commission on Constitutional Matters
- The Synod's current legal counsel
- The Synod's former legal counsel
- Representatives from 2004 Convention Floor Committee 7

It is clear from the responses received that consensus, which the committee believes would be most desirable for the sake of unity and harmony in the Synod, has not been achieved on several of the recommendations offered in the first draft of the committee's report. The committee offers this final report to inform the Synod of its review of "the matter" assigned to the committee by Resolution 7-02A. In addition, this report proposes amendments to the governing documents of the Synod affirming and building upon the actions of the 2004 convention in Resolution 7-02A.

Recommendations from the 7-02A Committee

In consideration of the information presented above, the 7-02A Committee recommends that the amendments listed below be made by the 2007 convention to the Bylaws and Articles of Incorporation of the Synod regarding "the matter" referenced in 2004 Resolution 7-02A. It is the committee's prayer that this report and approval of its recommendations by the 2007 convention will allow the Synod to proceed with its far more important business of sharing the Gospel of Jesus Christ with an unbelieving world in need of the great news of forgiveness of sins, life, and salvation through faith in Christ alone!

— I —

Re: Articles of Incorporation: "Article V Officers"

The 2004 convention of the Synod added the following second paragraph to Article V of the Synod's Articles of Incorporation:

The management authority and duties of the Board of Directors of the Synod shall be limited to the extent such authority and duties are delegated by the Constitution and Bylaws of The Lutheran Church—Missouri Synod to other officers and agencies of the Synod. The management authority and duties of the Board of Directors and such other officers and agencies shall be defined in the Constitution and Bylaws, and each of them shall be responsible to the Synod for the proper and prudent fulfillment of the authority and duties so designated to them. In case of any conflict or uncertainty in determining the authority and duties of the Board of Directors and such other officers and agencies, the opinions of the Commission on Constitutional Matters interpreting the Constitution and Bylaws of The Lutheran Church—Missouri Synod shall be binding, unless and until overruled by a synodical convention.

The 7-02A Committee notes that the Articles of Incorporation of a Missouri not-for-profit corporation is a public document on file with the State of Missouri. It is there for all the world to see, including members, non-members, and those who would do business with the corporation—in this case, the Synod. Thus, the Articles should alert the public to any deviation from corporate norms.

The 7-02A Committee advocates the addition of a single statement to the second paragraph of current Article V, the paragraph thereby acknowledging the applicability of the not-for-profit corporate laws of the State of Missouri while alerting the public to the Synod's deviation from corporate norms. The Committee therefore proposes that Article V of the Synod's Articles of Incorporation be amended to read as follows:

~~PRESENT~~/PROPOSED WORDING

Article V Officers

The corporation shall have a board of directors of such number and qualifications and who shall be elected in such manner and for such terms of office as shall be set forth in the Constitution or Bylaws of The Lutheran Church—Missouri Synod. In addition, the corporation shall have officers having such qualifications and who shall be elected or appointed in such manner and for such terms of office as provided for in the Constitution or Bylaws of The Lutheran Church—Missouri Synod. The management authority and duties of the Board of Directors of the Synod shall be limited to the extent such authority and duties are delegated by the Constitution and Bylaws of The Lutheran Church—Missouri Synod to other officers and agencies of the Synod. The management authority and duties of the Board of Directors and such other officers and agencies shall be defined in the Constitution and Bylaws, and each of them shall be responsible to the Synod for the proper and prudent fulfillment of the authority and duties so designated to them. In case of any conflict or uncertainty in determining the authority and duties of the Board of Directors and such other officers and agencies, the opinions of the Commission on Constitutional Matters interpreting the Constitution and Bylaws of The Lutheran Church—Missouri Synod shall be binding, unless and until overruled by a ~~synodical~~ synodical convention of the Synod. In case of any conflict or uncertainty relative to the applicability of the laws of the State of Missouri, such issues shall be resolved in accord with the provisions in the Constitution and Bylaws of the Synod.

— II —

Re: Bylaw 1.4.4

Resolution 7-21 of the 2004 convention of the Synod proposed an amendment to paragraph 2 of Article XI F of the Synod's Constitution. The proposed amendment deleted the words "in those areas where it has delegated such authority to an agency of the Synod" in the third sentence following the word "except" and replaced them with the words "to the extent management authority and duties have been delegated by the Constitution, Bylaws, or resolutions of the Synod to other officers and agencies of the Synod."

In accord with the provisions of the Constitution of the Synod relative to making amendments thereto, the proposed amendment was submitted to the voting congregations of the Synod for ratification. The amendment failed to receive the required two-thirds majority of the votes cast and thus was not adopted. Article XI F 2 therefore continues to read as follows:

2. The Board of Directors is the legal representative of the Synod. It is the custodian of all the property of the Synod, directly or by its delegation of such authority to an agency of the Synod. It shall exercise supervision over all the property and business affairs of the Synod except in those areas where it has delegated such authority to an agency of the Synod or where the voting members of the Synod through the adoption of bylaws or by other convention action have assigned specific areas of responsibility to separate corporate or trust entities, and as to those the Board of Directors shall have general oversight responsibility as set forth in the Bylaws.

The same 2004 convention, however, also adopted Resolution 7-02A, thereby amending Bylaw 1.07 c (now renumbered 1.4.4) by adding language similar to that which had been proposed for Article XI F 2 of the Constitution: "except to the extent management authority and duties have been delegated by the Articles of Incorporation, Constitution, Bylaws, or resolutions of a synodical convention to other officers and agencies of the Synod or to separate corporate or trust entities."

The Committee recommends retaining the current language of Bylaw 1.4.4 but amending it with the addition of a final sentence to acknowledge that pertinent laws of the State of Missouri must also be taken into consideration when applicable. The bylaw with the proposed amendment reads as follows:

~~PRESENT~~/PROPOSED WORDING

- 1.4.4 The Board of Directors serves the Synod as its legal representative and as custodian of all property of the Synod, and upon it is incumbent the general management and supervision of the business affairs of the Synod, except to the extent that management authority and duties have been delegated by the Articles of Incorporation, Constitution, Bylaws, or resolutions of a synodical convention to other officers and agencies of the Synod or to separate corporate or trust entities. Each other board of directors, board of regents, and board of trustees also serves the Synod with respect to the property of the Synod, to the extent of its jurisdiction, as provided or authorized in these Bylaws. Upon each such board of the Synod is incumbent the general management and supervision of the business affairs of the Synod to the extent of its jurisdiction. Any issues relative to the applicability of the laws of the State of Missouri shall be resolved in accord with the provisions in the Constitution and Bylaws of the Synod.

— III —

Re: Bylaw 3.3.5.4

The Constitution of the Synod provides that the Board of Directors is the legal representative of the Synod (Art. XI F 2). In the course of their operations, program boards, commissions, and councils that are part of corporate Synod may have reason to secure legal opinions. In order to carry out fully its duty as legal representative of the Synod, the 7-02A Committee believes that the Board of Directors should be furnished copies of all such legal opinions so that it is aware of any legal issues involving corporate Synod. Accordingly, the following addition to Bylaw 3.3.5.4 is recommended:

PRESENT/PROPOSED WORDING

3.3.5.4 The Board of Directors shall be responsible for the general management of the business and legal affairs of the Synod. It shall receive copies of all legal opinions or written counsel received by program boards, commissions, and councils of the Synod. It and shall be authorized to take on behalf of the Synod any action related to such business and legal affairs which has not been expressly delegated by the Constitution, Bylaws, and resolutions of the Synod to other officers or agencies of the Synod, and as to those shall have general oversight responsibility.

— IV —

Re: Bylaw 3.3.5.5 (a)

Program boards and commissions are part of corporate Synod. Their budgets are established by its Board of Directors. Prior to 2004, the Bylaws of the Synod provided that the Board of Directors had “the right to call up for review, criticism, modification, or revocation” any action or policy of a program board, commission, or council except opinions of the Commission on Constitutional Matters. Resolution 7-02A of the 2004 convention amended the bylaw to provide that the Board of Directors could only *request* modification or revocation of an action or policy.

Since the Constitution of the Synod provides that the Board of Directors is the legal representative of the Synod and the custodian of all of the property of the Synod and shall exercise supervision over all of the property and business affairs of the Synod, the 7-02A Committee believes that the 2004 amendment places an inappropriate limitation on the constitutional duties of the Board of Directors. In addition, confusion exists as to the meaning of the words “call up” in the current bylaw. The 7-02A Committee therefore recommends the following revision of Bylaw 3.3.5.5 (a):

PRESENT/PROPOSED WORDING

3.3.5.5 The Board of Directors shall allocate available funds to the program boards, commissions, councils, and departments of corporate Synod and hold them responsible therefor.

(a) To the extent of its responsibilities relative to the general management and supervision of the business and legal affairs of the Synod:

(1) It shall receive such reports as it requests on the operations and policies of the program boards, commissions, and councils.

(2) It shall have the right to ~~call up for request review and criticism, and request modification or revocation of~~, of any action or policy of a program board, commission, or council which primarily relates to business, property, and/or legal matters and, after consultation with the agency involved and when deemed necessary, require modification or revocation thereof, except opinions of the Commission on Constitutional Matters.

— V —

Re: Bylaw 3.9.2.1

Bylaw 3.9.2.1 states that the Commission on Constitutional Matters shall consist of “five voting members appointed by the President of the Synod, whose terms shall be for six years renewable once, three of whom shall be ordained ministers and two shall be lawyers.”

Concern has been expressed that the present wording “appointed by the President of the Synod” early in the bylaw could mislead readers to conclude that the only step in the commission selection process is appointment by the President. However, Bylaw 3.9.2.1.1 clearly outlines a progression of steps that includes active participation by district boards of directors, the Secretary of the Synod, and the Council of Presidents. The process only finally concludes with the President of the Synod, in consultation with the vice-presidents of the Synod, appointing the members of the commission from the list(s) presented by the Council of Presidents (Bylaw 3.9.2.1.1 [c]).

While perhaps not specifically or directly related to “the matter” referenced in Resolution 7-02A, the 7-02A Committee believes that confusion can be reduced by removing the words “appointed by the President of the Synod” from Bylaw 3.9.2.1 and recommends that the bylaw be amended to read:

PRESENT/PROPOSED WORDING

3.9.2.1 The Commission on Constitutional Matters shall consist of

1. five voting members ~~appointed by the President of the Synod~~, whose terms shall be for six years renewable once, three of whom shall be ordained ministers and two shall be lawyers;
2. the Secretary of the Synod, who shall serve as a non-voting member of the commission and its secretary.

— VI —

Re: Bylaw 3.9.2.1.1

The 7-02A Committee reviewed the present procedure for selecting the members of the Commission on Constitutional Matters. The present process begins with the names of nominees being submitted to the Secretary of the Synod by district boards of directors. The names of these nominees and all supporting documents are then forwarded by the Secretary of the Synod to the Council of Presidents, which in turn studies the qualifications of the nominees and then, through the office of the Secretary of the Synod, submits five candidates for each vacant position to the President of the Synod. The President, after consultation

with the vice-presidents of the Synod, appoints one of the five candidates to each vacant position.

This bylaw was amended by the 2001 convention when a final step in the appointment process was eliminated. Prior to this amendment, the appointments by the President of the Synod became effective only upon ratification by a majority vote of the Council of Presidents. While perhaps not specifically or directly related to “the matter” referenced in Resolution 7-02A, the 7-02A Committee believes that the restoration of the final step in the appointment process that was eliminated by the 2001 convention will help to restore confidence in the process. The Committee therefore recommends that current paragraph (d) become paragraph (e) and that a new paragraph (d) be inserted that will again require final ratification by the Council of Presidents of the appointments made by the President of the Synod, the amended bylaw to read as follows:

~~PRESENT~~/PROPOSED WORDING

3.9.2.1.1 The Commission on Constitutional Matters shall be appointed in the following manner:

- (a) Candidates shall be nominated only by the district boards of directors and shall be presented to the Council of Presidents through the Office of the Secretary.
- (b) The Council of Presidents shall select five candidates for each vacant position and present them through the office of the Secretary of the Synod to the President of the Synod.
- (c) The President of the Synod, in consultation with the vice-presidents of the Synod, shall appoint the members of the commission from the list presented by the Council of Presidents.
- (d) Thereafter the appointments shall become effective upon ratification by a majority vote of the members of the Council of Presidents.
- (e) Vacancies in appointed positions shall be filled by following the procedure set forth above.

— VII —

Re: Bylaw 3.9.2.2

(A) Concern has been expressed that on occasion the Commission on Constitutional Matters (CCM) has issued an opinion that has affected an officer or agency of the Synod but that such officer or agency was unaware of the question placed before the Commission and thus was unable to furnish information that may have been helpful to the Commission in arriving at its opinion. Current bylaws include no provision for informing and inviting input from officers or agencies affected by requests for opinions. The 7-02A Committee therefore recommends that Bylaw 3.9.2.2 be amended with the addition of new paragraph (b) providing for the notification of an officer or agency when a request for an opinion from the Commission on Constitutional Matters involves an activity of that officer or agency and providing for an invitation to submit in writing pertinent information regarding the matter(s) at issue.

(B) Present Bylaw 3.9.2.2 (b) states that when opinions pertain primarily to business, legal, finance, civil rights, contracts, or property matters, the Commission shall first consult with the Board of Directors of the Synod and/or the

Synod’s legal counsel. The 7-02A Committee recommends that this requirement be eliminated in light of its proposal for the addition of new paragraph (b) whereby the Board as an officer of the Synod (Constitution Art. V) would necessarily be contacted by the Commission.

(C) Concern has also been expressed that the provisions of present paragraph 3.9.2.2 (b), which allows opinions of the Commission to be overruled by a convention of the Synod, be strengthened to make more certain that such opinions receive attention by a convention. The 7-02A Committee recommends that this matter be addressed by a new paragraph (c) to include specific provisions that will assure that convention overtures that seek to overrule opinions of the Commission receive appropriate attention.

(D) Finally, present Bylaw 3.9.2.2 (b) states that the Commission on Constitutional Matters shall interpret the Synod’s Constitution, Bylaws, and resolutions. Article XI F 2 of the Synod’s Constitution states that the Board of Directors of the Synod is the legal representative of the Synod and Bylaw 3.3.5.2 states that the Board “shall have the powers and duties that have been accorded to it by the Articles of Incorporation, Constitution, Bylaws, and resolutions of the Synod, *and the laws of the State of Missouri*” (emphasis added). Thus the Synod requires that the Board be responsive to the laws of the State of Missouri. The Bylaws do not give the Commission on Constitutional Matters the authority to interpret the laws of the State of Missouri. The Board alone is vested with the duty to determine the applicability of such laws as they pertain to the legal, property, and business affairs of the Synod.

Presently there is no clarification in the Bylaws of the Synod for those relatively rare occasions when the Commission on Constitutional Matters may issue an opinion related to a legal, property, or business matter that determines that the Constitution and/or Bylaws and/or resolutions of the Synod require a certain conclusion, while the Board of Directors determines, after consulting with the Synod’s legal counsel, that the laws of the State of Missouri require a different conclusion. 1 Corinthians 6:4 admonishes that disputes should be kept within the church. Accordingly, the 7-02A Committee recommends the creation of a new paragraph (d) for Bylaw 3.9.2.2 to address this situation.

In response to the above concerns, the 7-02A Committee recommends amendments to Bylaw 3.9.2.2 as follows:

~~PRESENT~~/PROPOSED WORDING

3.9.2.2 The Commission on Constitutional Matters shall interpret the Synod’s Constitution, Bylaws, and resolutions upon the written request of a member (congregation, ordained or commissioned minister), official, board, commission, or agency of the Synod.

- (a) A request for an opinion may be accompanied by a request for an appearance before the commission.
- (b) The commission shall notify an officer or agency of the Synod if a request for an opinion involves an activity of that officer or agency and shall allow that officer or agency to submit in writing information regarding the matter(s) at issue.
- (c) An opinion rendered by the commission shall be binding on the question decided unless and until it is overruled by a convention of the Synod. Over-

tures to a convention that seek to overrule an opinion of the commission shall support the proposed action with substantive rationale from the Constitution, Bylaws, and resolutions of the Synod. All such overtures shall be considered by the floor committee to which they have been assigned and shall be included in a specific report to the convention with recommendations for appropriate action.

- (d) When an opinions pertains primarily to business, legal, ~~finance, civil rights, contracts,~~ or property matters, and the Board of Directors of the Synod concludes that such opinion of the commission is contrary to the laws of the State of Missouri, the board and the commission, or their respective representatives, shall meet jointly to discuss the issue(s) and seek resolution thereof first consult with the Board of Directors of the Synod and/or the Synod's legal counsel. If agreement cannot be reached on whether the matter is governed by the laws of the State of Missouri, that question shall be presented to a five-member panel consisting of three hearing facilitators (Bylaw 1.10.12) chosen by blind draw by the Executive Director of Internal Audit of the Synod from the pool of hearing facilitators; one person appointed by the Commission on Constitutional Matters; and one person appointed by the Board of Directors. At least one of the hearing facilitators shall be an attorney, and the appointees of the commission and board shall not be members of the groups that appointed them. The decision of the panel in support of the position of the Commission on Constitutional Matters or the Board of Directors shall be binding on the issue(s) unless and until it is overruled by a convention of the Synod.

Appendix A

To Amend Synodical Articles of Incorporation and Bylaws Regarding Officer and Board Responsibilities

RESOLUTION 7-02A

Report LR1-8 (TB, pp. 21–27); Overtures 7-06, 7-27, 7-80–84, 7-112–117 (CW, pp. 250–251, 260, 277–278, 287–289); L7-122 (TB, p. 37); L7-123 (TB, pp. 239–240)

WHEREAS, The Board of Directors and the Synod's legal counsel recognize that the Articles of Incorporation, Constitution, and Bylaws of the Synod require amendments to clarify the roles of the officers, including the Board of Directors, and other boards and to reflect other changes since they were last amended in 1998; and

Whereas, President Kieschnick in his *Special Report to the Convention* (LR 1-8, TB, pp. 21–27) reported, "In accord with the Constitution of The Lutheran Church—Missouri Synod it is my duty as President to report to the Synod that the Board of Directors of the LCMS (BOD/Board) has taken actions that 'may be in violation of the Constitution, Bylaws, and resolutions of the Synod' (Bylaw 3.101 B 5)"; and

WHEREAS, The Board of Directors has repeatedly indicated its desire to restore peace and harmony in the Synod; and

WHEREAS, If some of the following changes to the Articles of Incorporation and Bylaws had been in place, the impasse between the Board of Directors and the bylaws that refer to the binding nature of the opinions of the Commission on Constitutional Matters [Bylaws 3.905 d and 3.183 D 2] would not have occurred; therefore be it

Resolved, That the Articles of Incorporation be amended to read as follows:

PRESENT/PROPOSED WORDING

Article III Membership

Membership in the corporation is held and may be acquired by congregations, ministers of religion—ordained, and ministers of religion—commissioned, as defined by the Constitution and Bylaws, such as teachers, directors of Christian education, directors of Christian outreach, directors of parish music, deaconesses, parish assistants, and certified lay ministers of the Evangelical Lutheran Church who confess and accept the confessional basis of Article II of the Constitution of The Lutheran Church—Missouri Synod. The member congregations of The Lutheran Church—Missouri Synod shall be the voting members of the corporation. Congregations shall exercise their voting power through clergy and lay delegates distributed among the member congregations in such number as may be determined from time to time by the Bylaws of The Lutheran Church—Missouri Synod.

Article V Officers

The corporation shall have a Board of Directors of such number and qualifications and who shall be elected in such manner and for such terms of office as shall be set forth in the Constitution or Bylaws of The Lutheran Church—Missouri Synod. In addition, the corporation shall have other officers having such qualifications and who shall be elected or appointed in such manner and for such terms of office as provided for in the Constitution or Bylaws of The Lutheran Church—Missouri Synod.

The management authority and duties of the Board of Directors of the Synod shall be limited to the extent such authority and duties are delegated by the Constitution and Bylaws of The Lutheran Church—Missouri Synod to other officers and agencies of the Synod. The management authority and duties of the Board of Directors and such other officers and agencies shall be defined in the Constitution and Bylaws, and each of them shall be responsible to the Synod for the proper and prudent fulfillment of the authority and duties so delegated to them. In the case of any conflict or uncertainty in determining the authority and duties of the Board of Directors and such other officers and agencies, the opinions of the Commission on Constitutional Matters interpreting the Constitution and Bylaws of The Lutheran Church—Missouri Synod shall be binding, unless and until overruled by a synodical convention.

and be it further

Resolved, That Bylaw 1.07 c, regarding the Board of Directors be amended to read as follows:

PRESENT/PROPOSED WORDING

- c. The Board of Directors serves the Synod as its legal representative and as custodian of all property of the Synod, and upon it is incumbent the general management and supervision of the business affairs of the Synod, except to the extent management authority and duties have been delegated by the Articles of Incorporation, Constitution, Bylaws, or

resolutions of a synodical convention to other officers and agencies of the Synod or to separate corporate or trust entities. Each other board of directors, board of regents, and board of trustees also serves the Synod with respect to the property of the Synod, to the extent of its jurisdiction, as provided or authorized in these Bylaws. Upon each such board of the Synod is incumbent the general management and supervision of the business affairs of the Synod to the extent of its jurisdiction. Also, each board of directors, board of regents, and board of trustees shall, to the extent of its jurisdiction, between conventions and subject to advice or direction from any other appropriate board that has been given authority by these Bylaws or by convention resolution, (1) determine general operating policies, (2) approve program budgets, (3) allocate resources for such programs, (4) review program performance, and (5) coordinate the administration of convention resolutions. Each board of directors shall also be empowered to settle disputes within that corporate entity. Each board shall report its activities and recommendation to the respective convention.

and be it further

Resolved, That Bylaw 3.51 c be amended to read:

~~PRESENT/PROPOSED~~ WORDING

c. *Corporate Synod*: The Lutheran Church—Missouri Synod, the Missouri nonprofit corporation, including the ~~program boards, commissions, and all other~~ departments operating under the supervision of the Board of Directors of the Synod and the program boards and commissions of the Synod. ~~“Corporate Synod” is a term to define that portion of the Synod for which the Synod’s Board of Directors has direct responsibility, and is~~ not an agency of the Synod. Worker Benefit Plans, while operating under the supervision of the Board of Directors, is a trust agency whose assets are not the property of corporate Synod. The Lutheran Church—Missouri Synod, in referencing the laws of the State of Missouri in these Bylaws and in the Synod’s Articles of Incorporation, intends to acknowledge its responsibility to be subject to civil authority. In all such references, however, the Synod intends to retain all authority and autonomy allowed a church under the laws and Constitution of the United States and the State of Missouri.

and be it further

Resolved, That Bylaw 3.183 d 2 regarding the Board of Directors be amended to read:

~~PRESENT/PROPOSED~~ WORDING

~~2. It shall have the right to call up for review, criticism, modification, or revocation any action or policy of a program board, commission, or council, except opinions of the Commission on Constitutional Matters. It shall have the right to call up for review and criticism, and to request modifica-~~

tion or revocation of, any action or policy of a program board, commission, or council, except opinions of the Commission on Constitutional Matters.

and be it further

Resolved, That Bylaw 3.905 d regarding the Commission on Constitutional Matters be amended to read:

~~PRESENT/PROPOSED~~ WORDING

d. interpret the Synod’s Constitution, Bylaws, and resolutions upon the written request of a member (congregation, ordained or commissioned minister), official, board, commission, entity, or agency of the Synod. Such a request may be accompanied by a request for an appearance before the commission. An opinion rendered by the commission shall be binding on the question decided unless and until it is overruled by a synodical convention. When opinions pertain primarily to business, legal, finance, civil rights, contracts, or property matters, the commission shall first consult with the Board of Directors and/or the Synod’s legal counsel.

and be it further

Resolved, That the convention consider this action as resolving the current difficulty but directs the President and Board of Directors jointly to appoint a committee to address the matter and report to the 2007 convention; and be it further

Resolved, That the convention overrules the resolutions of the Board of Directors referenced in Appendix A of the President’s special report found on pages 24–26 of *Today’s Business* and declares that they are of no effect; and be it finally

Resolved, That the convention pray for peace and harmony in the Synod as it moves forward in mission and ministry.

Action: Adopted (6)

(The committee invoked Special Standing Rule 6 as it presented its resolution, noting changes to the second-last resolve in the printed version of the resolution replacing the word *thank* with *overrules the resolutions of*, deleting the words *for rescinding its resolutions*, and adding the words *and declares that they are of no effect*. Prior to the elapse of the time allowed for discussion, debate was ended and the resolution was adopted as presented [Yes: 654; No: 541]. A motion to allow the chairman of the Board of Directors 15 minutes to address the assembly failed. Upon request of the delegate responsible for the motion, permission was granted to allow delegates the opportunity to request in writing to have their votes on the motion recorded.)

Resolution 7-02A Committee
Walter Tesch, *Chairman*

LATE OVERTURES

The following overtures were received after the deadline for receipt of reports and overtures but have been accepted for convention consideration. They are of two kinds.

The first of the following overtures (L1-19, L2-26, L3-106, L6-07, and L8-72) were originally submitted prior to the deadline for reports and overtures but were returned to the submitting entities for consideration of minor changes to address concerns regarding content. These overtures subsequently were returned with concerns addressed but too late for inclusion in the convention's *Workbook*. They are included here.

The remainder of these overtures (L1-18, L3-105, L4-38, L5-39, and L7-63) were submitted after the deadline for reports and overtures and are true late overtures, each judged according to Bylaw 3.1.6 (a) "to be a matter of overriding importance and urgency which is not adequately covered by documents already before the convention."

L1-19

To Support Chicago Racetrack Ministry

WHEREAS, The Reverend David Krueckeberg, better known to the people whom he serves as "Reverend Dave," is an ordained minister of The Lutheran Church—Missouri Synod who has served with distinction as a minister for the workers of the thoroughbred horse racetracks in the Chicago area since 1969; and

WHEREAS, He was the first full-time racetrack minister in the United States and his ministry has served as a model for racetrack ministry for the Christian Church at large; and

WHEREAS, He has been licensed by the State of Illinois for 38 years to have access to the people who live and work in the stable areas of the racetracks; and

WHEREAS, He has conducted a unique, but thriving seven days a week ministry to those who care for the horses that could not be done easily by a parish pastor, since state law restricts access to the stable area to licensed personnel and since many of the grooms, hot-walkers, exercise riders, and other workers work long hours seven days a week that hinder their involvement in a typical congregation, and many lack transportation to leave the racetrack; and

WHEREAS, Reverend Dave, in addition to preaching the Gospel, has tried to help racetrackers meet some of their most basic physical needs (including electricity, indoor plumbing, and water quality); and

WHEREAS, It is not good for any mortal to prevent a pastor from exercising his holy stewardship over Word and Sacrament; and

WHEREAS, One of the purposes for which The Lutheran Church—Missouri Synod was organized and exists is to support pastors from unjust removal from their ministry; and

WHEREAS, Reverend Dave has been barred by the Hawthorne Race Course from ministering to racetrackers

in both the public and the nonpublic areas of the racetrack and by the Arlington Park Racetrack, which is owned by Churchill Downs, Inc., from ministering to racetrackers in the nonpublic areas of the racetrack; and

WHEREAS, Reverend Dave had been allowed to conduct services within a two-hour period each week in the nonpublic stable area at the Hawthorne Race Course, but even that privilege was revoked on March 31, 2006; and

WHEREAS, Reverend Dave has repeatedly not been allowed to do grief ministry to the families of deceased workers who live and work in the nonpublic stable areas of the racetracks immediately following the death of a loved one, even though he had a pastoral relationship with the families; and

WHEREAS, There has been a significant decrease in the number of Baptisms among racetrackers and their families since Reverend Dave has been denied full access to the stable areas of the racetrack; and

WHEREAS, There has been a 40 percent decline in the number of racetrack children enrolled at Grace Lutheran School since Reverend Dave has been denied full access to the stable areas of the racetracks, and it is anticipated that enrollment will continue to decline if he continues to be barred from his ministry; and

WHEREAS, The owners and managers of the Hawthorne Race Course and the Arlington Park Racetrack have rebuffed numerous requests for the reinstatement of the ministry of Reverend Dave; and

WHEREAS, Reverend Dave's plight has been featured in the *English Channels*, the *Northern Light*, *Reporter*, *The Lutheran Witness*, and in the local secular press, including the *Chicago Tribune*, the *Chicago Sun-Times*, the *Daily Herald*, and the *Pioneer Press*, and Reverend Dave has been commended by our Synod President, Dr. Gerald Kieschnick, and by five district presidents whose districts include Hawthorne Race Course and all racetracks owned by Churchill Downs, Inc.; and

Resolved, That the LCMS in convention publicly commend Reverend Dave for his labors and publicly support his ministry; and be it further

Resolved, That the LCMS in convention in the names of our 2.4 million members find Hawthorne Race Course and Arlington Park Racetrack's actions unacceptable; and be it further

Resolved, That the 2007 LCMS convention formally request that the owners of Arlington Park and Hawthorne racetracks allow Reverend Dave the access he previously had to the racetrackers at those racetracks to continue his ministry among God's people.

Trinity, Villa Park, IL
Trinity, Chicago, IL
Markham, Markham, IL
New Life, Hugo, MN

L2-26

To Promote Sound Lutheran Worship Practices

WHEREAS, The first Synod Constitution was concerned about the Synod's congregations adopting the camp revivals of common American religion, saying,

1. "Especially is Synod to investigate whether its pastors have permitted themselves to be misled into applying the so-called 'New Measures' which have become prevalent here, or whether they care for their souls according to the sound Scriptural manner of the orthodox Church" (VI, A, 15), and
2. "Furthermore Synod deems it necessary for the purification of the Lutheran Church in America, that the emptiness and the poverty in the externals of the service be opposed, which, having been introduced here by the false spirit of the Reformed, is now rampant. All pastors and congregations that wish to be recognized as orthodox by Synod are prohibited from adopting or retaining any ceremony which might weaken the confession of the truth or condone or strengthen a heresy, especially if heretics insist upon the continuation or the abolishment of such ceremonies" (VI, A, 14b);

and

WHEREAS, The present Constitution of The Lutheran Church—Missouri Synod, Art. III, point 7 states one of the objectives of our Synod,

1. "Encourage congregations to strive for uniformity in church practice, but also to develop an appreciation of a variety of responsible practices and customs which are in harmony with our common profession of faith";
2. And point 1 states another objective of our Synod, "Conserve and promote the unity of the true faith...and provide a united defense against schism, sectarianism (Rom. 16:17), and heresy";
3. And 2004 Synod Bylaw 4.4.4 (b), directs the district president or his representative saying, "In his official visits he shall seek to bring about to the greatest possible degree the achievement of the Synod's objectives as expressed in Art. III of its Constitution"; and

WHEREAS, Art. VI of the Constitution of The Lutheran Church—Missouri Synod lists as one of the conditions for acquiring and holding membership in the Synod,

1. "Exclusive use of doctrinally pure agenda, hymnbooks, and catechisms in church and school,"
2. And Synod Bylaw 3.9.7.2 (c) (1) states, "All service books and hymnals that are to be accepted as official service books and hymnals of the Synod shall be given such status only by a convention of the Synod after a process of exposure and testing decided upon by the Synod in convention."
3. Synod Bylaw 3.9.7.2 (c) lists as one of the functions and duties of the Commission on Worship, "Recommend worship material to the church and advise and warn against the use of worship materials that are unworthy of use in the corporate worship of the Lutheran Church," thereby implying that not all worship materials are helpful;

and

WHEREAS, In the not too distant past the Commission on Worship in its report "Reflections on Contemporary/Alternative Worship" (1998 *Workbook*) warns against too hastily departing from "the historic pattern of worship that has been handed down for nearly 2,000 years," stating, "Wor-

ship is closely related to other concerns, such as the unity of the church, formation in the faith, and faithfulness to the Word of God. A change in worship may indeed signal a change in doctrine. 'What is prayed is what is believed' is the ancient wisdom of the church. Our Synod founders provided in their constitutions that only 'purely Lutheran hymnals, agendas, and textbooks' could be used in the congregations of the Synod. Out of faithfulness to God, love for the lost, and concern for future generations, Christians must pay careful attention to what is confessed in the public worship of the church," and "Not every form of expression is compatible with the Gospel. Certain styles of music, for example, are less appropriate than others for the worship of God's people. For this reason it is essential that the music appropriately serve the text and not overpower it with other messages. Style, after all, is not neutral, but is intrinsically bound up with the substance that it proclaims"; and

Present Synodical Practice

WHEREAS, Our Synod President in his first report to the 2004 convention states, "In the past few decades, numerous congregations of the LCMS have introduced 'contemporary' worship forms and music in addition to and, in some instances, even in place of traditional liturgies and hymnody. The conditions of membership in the Synod require 'Exclusive use of doctrinally pure agenda, hymnbooks, and catechisms in church and school (LCMS Constitution, Art. VI).' This presents a dilemma, since our Synod has not specifically stipulated what these "doctrinally pure" contemporary worship resources for use by our congregations and professional church workers must be...Whether traditional or contemporary, worship services in congregations of the LCMS must employ doctrinally pure resources for the basic elements of distinctively Lutheran Christian worship...The proper utilization of any form must always provide a proper setting for receiving the divine gifts of God and giving praise and glory to our triune God, Father, Son, and Holy Spirit"; and

WHEREAS, 2004 Res. 2-04 directed the Commission on Worship to "initiate a process toward the development of diverse worship resources for use in The Lutheran Church—Missouri Synod"; and

WHEREAS, Our President is correct when he concludes, saying, "The proper utilization of any form must always provide a proper setting for receiving the divine gifts of God and giving praise and glory to our triune God, Father, Son, and Holy Spirit"; and

WHEREAS, "Evangelical Protestant Revivalism" has the following characteristics where human measures are relied upon to do the work of Word and Sacrament:

- Sturdy doctrinal hymns are replaced with simplistic repetitive praise songs.
- Doctrinal sermons are replaced with chancel dramas or how-to sermons for Christian living.
- Creativity and variety are used to keep the experience relevant.
- Worship is made meaningful by meeting the felt needs of the worshiper.

- Sacramental emphasis is diminished, while sacrificial (prayer, praise, testimonial, etc.) is highlighted.
- Lay service leadership is increased and brought to the front.
- The Pastor's role is seen primarily as leading and equipping the laity.
- Entertainment practices and music appeal to and manipulate the emotions.
- Worship is seen as evangelism and therefore must be understandable and appealing to the non-Christian;

And thus "Evangelical Protestant Revivalism" (which most refer to as Contemporary Worship) is none other than the heterodox worship of modern generic Protestants and non-denominational churches. Those "Lutherans" who hold to the false tenets of the Church Growth movement fall into the same errors; AND

WHEREAS, This "Evangelical Protestant Revivalism"

- (1) is not centered in the doctrine of justification, but views worship primarily as something I do for God. It has good works (sanctification) as its goal, not the forgiveness of sins;
- (2) believes that the Word of God (substance) needs something else (style) in order to be effective. The correct application of Law and Gospel is replaced with an emphasis on approach (methods), and appeals to the felt needs and desires of people; and
- (3) justifies its changes on the practical grounds of evangelism and increased church attendance. By appealing to observable results, it does what "works." In order to reach people, it uses entertainment methods to move the emotions and it waters down the content of the Christian faith in order not to offend; and

Style and Substance (a false division)

WHEREAS, Lutherans put complete and utter trust in the Holy Spirit working through the Word of God (including the Word-instituted Sacraments) to accomplish God's purpose of creating and strengthening faith. Contemporary Worship likes to say that they are simply using Evangelical style but keeping Lutheran substance. Those who think that they can increase the effectiveness of God's Word by jazzing up the service, etc., are directing attention away from the Word alone to other causes. At no point is there ever another cause or reason for a person coming to faith. Neither is there ever anything besides the Holy Spirit working through the Word that keeps us in the true faith or strengthens our faith in Christ. AC, VIII: "The sacraments are efficacious even if the priests who administer them are wicked men, for as Christ himself indicated, 'The Pharisees sit on Moses' seat' (Matt. 23:2). Accordingly the Donatists and all others who hold contrary views are condemned." Ap, XIII, 13: "It is good to extol the ministry of the Word with every possible kind of praise in opposition to the fanatics who dream that the Holy Spirit does not come through the Word but because of their own preparations." John 6:63: "It is the Spirit who gives life; the flesh profits nothing. The words that I speak to you are spirit, and they are life." Also see 1 Cor. 3:1-7: "God gave the increase," and FC, SD, II, 48; and

Pre-Evangelism (Word + something)

WHEREAS, To think that our own words and actions could better prepare someone to hear the Word or make them more receptive to the Word is a denial of original sin. FC, SD, II, 5: "Against both of these parties {*one being the Enthusiasts*} the pure teachers of the Augsburg Confession have taught and argued that through the fall of our first parents man is so corrupted that in divine things, concerning our conversion and salvation, he is by nature blind and does not and cannot understand the Word of God when it is preached, but considers it foolishness; nor does he of himself approach God, but he is and remains an enemy of God until by the power of the Holy Spirit, through the Word which is preached and heard, purely out of grace and without any cooperation on his part, he is converted, becomes a believer, is regenerated and renewed." FC, Ep, II, 7, 19: "Likewise we reject and condemn the error of the Enthusiasts who imagine that God draws men to himself, enlightens them, justifies them, and saves them without means, without the hearing of God's Word and without the use of the holy sacraments....Prior to man's conversion there are only two efficient causes, namely, the Holy Spirit and the Word of God as the Holy Spirit's instrument whereby he effects conversion. Man should hear this Word, though he cannot give it credence and accept it by his own powers but solely by the grace and operation of God the Holy Spirit." SC, III, VIII, 10: "Accordingly, we should and must constantly maintain that God will not deal with us except through his external Word and sacrament. Whatever is attributed to the Spirit apart from such Word and sacrament is of the devil."

1 Cor. 2:6-14: "We do, however, speak a message of wisdom among the mature, but not the wisdom of this age or of the rulers of this age, who are coming to nothing. No, we speak of God's secret wisdom, a wisdom that has been hidden and that God destined for our glory before time began. None of the rulers of this age understood it, for if they had, they would not have crucified the Lord of glory. However, as it is written: 'No eye has seen, no ear has heard, no mind has conceived what God has prepared for those who love Him'— but God has revealed it to us by His Spirit. The Spirit searches all things, even the deep things of God. For who among men knows the thoughts of a man except the man's spirit within him? In the same way no one knows the thoughts of God except the Spirit of God. We have not received the spirit of the world but the Spirit who is from God, that we may understand what God has freely given us. This is what we speak, not in words taught us by human wisdom but in words taught by the Spirit, expressing spiritual truths in spiritual words. The man without the Spirit does not accept the things that come from the Spirit of God, for they are foolishness to him, and he cannot understand them, because they are spiritually discerned" (NIV). Also see 2 Cor. 10:3-6 and Rom. 8:5-8; and

Doctrine of Justification (Central Article)

WHEREAS, The Doctrine of Justification is the main doctrine of Christianity by which the church stands or falls. Note the logical progression from these excerpts from Articles IV. Justification, V. Pastoral Office, and VI. Good

Works of the Augsburg Confession. Therefore, everything the church does either directs us to the forgiveness of sins or flows out of it. Therefore, scripturally faithful worship is concerned with giving out the faith-creating and faith-strengthening message of justification. The scriptural understanding of worship is one in which God serves us with His Word and Sacraments (Rom. 10:17; 1 Cor. 4:1), and we receive His gifts of forgiveness, life, and salvation with thanksgiving and praise. AC, IV: "We receive forgiveness of sin and become righteous before God by grace, for Christ's sake, through faith, when we believe that Christ suffered for us and that for his sake our sin is forgiven and righteousness and eternal life are given to us." AC, V: "To obtain such faith God instituted the office of the ministry, that is, provided the Gospel and the sacraments. Through these, as through means, he gives the Holy Spirit, who works faith, when and where he pleases, in those who hear the Gospel. And the Gospel teaches that we have a gracious God, not by our own merits but by the merit of Christ, when we believe this." AC, VI: "It is also taught among us that such faith should produce good fruits and good works and that we must do all such good works as God has commanded, but we should do them for God's sake and not place our trust in them as if thereby to merit favor before God. 2 For we receive forgiveness of sin and righteousness through faith in Christ, as (tr-47) Christ himself says, 'So you also, when you have done all that is commanded you, say, "We are unworthy servants"' (Luke 17:10)." 1 Cor. 3:8-11: "Now he who plants and he who waters are one, and each one will receive his own reward according to his own labor. For we are God's fellow workers; you are God's field, you are God's building. According to the grace of God which was given to me, as a wise master builder I have laid the foundation, and another builds on it. But let each one take heed how he builds on it. For no other foundation can anyone lay than that which is laid, which is Jesus Christ." Rom. 1:16-17: "For I am not ashamed of the gospel of Christ, for it is the power of God for the salvation of everyone who believes, for the Jew first and also for the Greek. For in it the righteousness of God is revealed from faith to faith; as it is written, 'The just shall live by faith.'" 2 Thess. 2:13-15: "But we are bound to give thanks to God always for you, brethren beloved by the Lord, because God from the beginning chose you for salvation through sanctification by the Spirit and belief in the truth, to which He called you by our gospel, for the obtaining of the glory of our Lord Jesus Christ. Therefore, brethren, stand fast and hold the traditions which you were taught, whether by word or our epistle." AC, XIII: "It is taught among us that the sacraments were instituted not only to be signs by which people might be identified outwardly as Christians, but that they are signs and testimonies of God's will toward us for the purpose of awakening and strengthening our faith. For this reason they require faith, and they are rightly used when they are received in faith and for the purpose of strengthening faith." Ap, IV, 49: "It is easy to determine the difference between this faith and the righteousness of the law. Faith is that worship which receives God's offered blessing; the righteousness of the law is that worship which offers God our own merits. It is by faith that God wants to be wor-

shipped, namely, that we receive from him what he promises and offers." Col. 1:3-8: "We give thanks to the God and Father of our Lord Jesus Christ, praying always for you, since we heard of your faith in Christ Jesus and of your love for all the saints; because of the hope which is laid up for you in heaven, of which you heard before in the word of the truth of the gospel, which has come to you, as it has also in all the world, and is bringing forth fruit, as it is also among you since the day you heard and knew the grace of God in truth; as you also learned from Epaphras, our dear fellow servant, who is a faithful minister of Christ on your behalf, who also declared to us your love in the Spirit." 2 Peter 1:5-11: "But also for this very reason, giving all diligence, add to your faith virtue, to virtue knowledge, to knowledge self-control, to self-control perseverance, to perseverance godliness, to godliness brotherly kindness, and to brotherly kindness love. For if these things are yours and abound, you will be neither barren nor unfruitful in the knowledge of our Lord Jesus Christ. For he who lacks these things is shortsighted, even to blindness, and has forgotten that he was cleansed from his old sins. Therefore, brethren, be even more diligent to make your call and election sure, for if you do these things you will never stumble; for so an entrance will be supplied to you abundantly into the everlasting kingdom of our Lord and Savior Jesus Christ." Also see Rom. 10:14-18, 21; and

Practical Appeal to Results

WHEREAS, The Scriptures and the Confessions seek real growth in faith and Christian knowledge: Ap, IV, 130: "Although it is somewhat possible to do civil works, that is, the outward works of the law, without Christ and the Holy Spirit, still the impulses of the heart toward God, belonging to the essence of the divine law, are impossible without the Holy Spirit; this is evident from what we have already said. 131 But our opponents are fine theologians! They look at the second table and political works; about the first table they care nothing, as though it were irrelevant, or at best they require only outward acts of worship. They utterly overlook that eternal law, far beyond the senses and understanding of all creatures: 'You shall love the Lord your God with all your heart' (Deut. 6:5)." Ap, VII and VIII, 5: "The church is not merely an association of outward ties and rites like other civic governments, however, but it is mainly an association of faith and of the Holy Spirit in men's hearts. To make it recognizable, this association has outward marks, the pure teaching of the Gospel and the administration of the sacraments in harmony with the Gospel of Christ. This church alone is called the body of Christ, which Christ renews, consecrates, and governs by his Spirit, as Paul testifies when he says (Eph. 1:22, 23), 'And he has made him the head over all things for the church, which is his body, the fullness,' that is, the whole congregation 'of him who fills all in all.' Thus those in whom Christ is not active are not members of Christ." Ap, VII and VIII, 12-15: "But when we come to define the church, we must define that which is the living body of Christ and is the church in fact as well as in name. We must understand what it is that chiefly makes us members, and living members, of the church. If we were to define the church as only

an outward organization embracing both the good and the wicked, then men would not understand that the kingdom of Christ is the righteousness of the heart and the gift of the Holy Spirit but would think of it as only the outward observance of certain devotions and rituals. Then, too, what difference will there be between the church and the Old Testament people? Yet Paul distinguishes the church from the Old Testament people by the fact that the church is a spiritual people, separated from the heathen not by civil rites but by being God's true people, reborn by the Holy Spirit. Among the Old Testament people, those born according to the flesh had promises about physical well-being, political affairs, etc. in addition to the promise about Christ. Because of these promises even the wicked among them were called the people of God inasmuch as God had separated these physical descendants from other nations by certain outward ordinances and promises. Nevertheless, these evil people did not please God. But the Gospel brings not the shadow of eternal things but the eternal blessings themselves, the Holy Spirit and the righteousness by which we are righteous before God." 1 Cor. 10:1–5: "Moreover, brethren, I do not want you to be unaware that all our fathers were under the cloud, all passed through the sea, all were baptized into Moses in the cloud and in the sea, all ate the same spiritual food, and all drank the same spiritual drink. For they drank of that spiritual Rock that followed them, and that Rock was Christ. But with most of them God was not well pleased, for their bodies were scattered in the wilderness." Heb. 11:6: "But without faith it is impossible to please Him: for he that cometh to God must believe that He is, and that He is a rewarder of them that diligently seek Him." Gal. 3:1–5: "O foolish Galatians! Who has bewitched you that you should not obey the truth, before whose eyes Jesus Christ was clearly portrayed among you as crucified? This only I want to learn from you: Did you receive the Spirit by the works of the law, or by the hearing of faith? Are you so foolish? Having begun in the Spirit, are you now being made perfect by the flesh? Have you suffered so many things in vain—if indeed it was in vain? Therefore He who supplies the Spirit to you and works miracles among you, does He do it by the works of the law, or by the hearing of faith?" Matt. 6:1–4: "Be careful not to do your 'acts of righteousness' before men, to be seen by them. If you do, you will have no reward from your Father in heaven. So when you give to the needy, do not announce it with trumpets, as the hypocrites do in the synagogues and on the streets, to be honored by men. I tell you the truth, they have received their reward in full. But when you give to the needy, do not let your left hand know what your right hand is doing, so that your giving may be in secret. Then your Father, who sees what is done in secret, will reward you"; and

Lutheran Confessions

WHEREAS, The Lutheran Confessions give many positive statements concerning their use of the historic pattern of worship, stating, "Falsely are our churches accused of abolishing the Mass {*that is, Service of Holy Communion*}; **for the Mass {Service of Holy Communion} is retained among us, and celebrated with the highest rever-**

ence. Nearly all the usual ceremonies are also preserved, save that the parts sung in Latin are interspersed here and there with German hymns, which have been added to teach the people. **For ceremonies are needed to this end alone that the unlearned be taught [what they need to know of Christ]....** It does not, therefore, appear that the Mass {*Service of Holy Communion*} is more devoutly celebrated among our adversaries than among us" (Augsburg Confession, XXIV, 1–4, 9), and "**And the usual public ceremonies are observed, the series of lessons, of prayers, vestments, and other like things**" (Apology, XXIV, 1), and "But they {*the holy Fathers*} observed human rites for the sake of bodily advantage, that the people might know at what time they should assemble; that, for the sake of example all things in the churches might be done in order and becomingly; lastly, that the common people might receive a sort of training. For the distinctions of times and the variety of rites are of service in admonishing the common people. The Fathers had these reasons for maintaining the rites, and for these reasons we also judge it to be right that traditions [good customs] be maintained....**But we cheerfully maintain the old traditions** [as, the three high festivals, the observance of Sunday, and the like] made in the Church for the sake of usefulness and tranquility; and we interpret them in a more moderate way, to the exclusion of the opinion which holds that they justify. **And our enemies falsely accuse us of abolishing good ordinances and church-discipline. For we can truly declare that the public form of the churches is more becoming with us than with the adversaries (that the true worship of God is observed in our churches in a more Christian, honorable way).** And if any one will consider it aright, we conform to the canons more truly than do the adversaries," (Apology, XV, 20–21, 38–39), and "Nevertheless, **very many traditions are kept on our part, which conduce to good order in the Church, as the Order of Lessons in the Mass {Service of Holy Communion} and the chief holy-days.** But, at the same time, men are warned that such observances do not justify before God, and that in such things it should not be made sin if they be omitted without offense. Such liberty in human rites was not unknown to the Fathers," (Augsburg Confession, XXVI, 40–42), and "Only those things have been recounted whereof we thought that it was necessary to speak, in order that it might be understood that **in doctrine and ceremonies nothing has been received on our part against Scripture or the Church Catholic.** For it is manifest that we have taken most diligent care that no new and ungodly doctrine should creep into our churches," (Augsburg Confession, Conclusion, 5); and

Concerning Adiaphora

WHEREAS, Although the Formula of Concord teaches "that the ceremonies or church usages which are neither commanded nor forbidden in the Word of God, but which have been introduced solely for the sake of good order and the general welfare, are in and for themselves no divine worship or even a part of it," the Formula goes on to explain that even in these areas of *adiaphora* (indifferent things,

neither commanded nor forbidden) there can be appropriate decisions concerning use. "We believe, teach, and confess that in time of persecution, when a clear-cut confession of faith is demanded of us, we dare not yield to the enemies in such indifferent things, as the apostle Paul writes, 'For freedom Christ has set us free; stand fast therefore, and do not submit again to a yoke of slavery' (Gal. 5:1)...In such a case it is no longer a question of indifferent things, but a matter which has to do with the truth of the Gospel, Christian liberty, and the sanctioning of public idolatry, as well as preventing offense to the weak in faith. In all these things we have no concessions to make, but we should witness an unequivocal confession and suffer in consequence what God sends us and what he lets the enemies inflict on us"; therefore be it

Resolved, That we remind one another of the promise we have made to use "doctrinally pure agenda, hymnbooks, and catechisms," both to preserve the truth and for the sake of good order; and be it further

Resolved, That out of love for each other congregations of the LCMS be strongly urged to seek as much uniformity in ceremonies as possible; and be it further

Resolved, That congregations be urged to adopt and use approved Synod hymnals; and be it further

Resolved, That 2004 Res. 2-04 not be understood to endorse the use of Evangelical Protestant Revival or neo-Evangelical worship forms or to encourage deviation from agreed-upon forms when it resolved that the Synod "affirm respect for diversity in worship practices as we build greater understanding of our theology of worship"; and be it further

Resolved, That the President of the Synod, the Council of Presidents, the seminaries, the universities and colleges, and the Commission on Worship continue to find ways to foster discussion among groups with diverse viewpoints for the purpose of building greater understanding of our theology of worship and fostering further discussion of worship practices that are consistent with sound Lutheran theology and practice; and be it further

Resolved, That the Southern Illinois District (SID) in convention (2006) directs her district president to undertake a visitation with particular emphasis at looking at the worship offered at every SID congregation in order to "Encourage congregations to strive for uniformity in church practice, but also to develop an appreciation of a variety of responsible practices and customs which are in harmony with our common profession of faith" (LCMS Constitution, Art. III 7); and

1. "To seek to bring about to the greatest possible degree the achievement of the Synod's objectives as expressed in Article III of its Constitution" (2004 Synod Bylaw 4.4.4b);
2. "To conserve and promote the unity of the true faith...and provide a united defense against schism, sectarianism (Rom 16:17), and heresy" (LCMS Constitution, Art. III 1); and
3. To determine whether there is an "Exclusive use of doctrinally pure agenda, hymnbooks, and catechisms in church and school" (LCMS Constitution, Art. VI 4).

(Note: The district president always has the right to direct his vice-presidents and circuit counselors to assist him in the endeavor); and be it further

Resolved, That the Southern Illinois District (SID) in convention (2006) direct the district president to present a report to the 2009 SID convention concerning his findings and the actions he has taken; and be it finally

Resolved, That the Southern Illinois District in convention (2006) memorialize The Lutheran Church—Missouri Synod in convention (2007) to clarify that 2004 Res. 2-04 is not to be understood to endorse the use of Evangelical Protestant Revival or neo-Evangelical worship forms or to encourage deviation from agreed-upon forms when it resolved that the Synod "affirm respect for diversity in worship practices as we build greater understanding of our theology of worship."

Board of Directors
Southern Illinois

L3-106

To Recognize Greater Specificity re Functions of the Pastor Office

WHEREAS, The Lutheran Church—Missouri Synod and "every member of the Synod, accepts without reservation: 1. The Scriptures of the Old and New Testament as the written Word of God and the only rule and norm of faith and of practice; 2. All the Symbolical Books of the Evangelical Lutheran Church as a true and unadulterated statement and exposition of the Word of God, to wit: the three Ecumenical Creeds (the Apostles' Creed, the Nicene Creed, the Athanasian Creed), the Unaltered Augsburg Confession, the Apology of the Augsburg Confession, the Smalcald Articles, the Large Catechism of Luther, the Small Catechism of Luther, and the Formula of Concord" (LCMS Constitution, Article II); and

WHEREAS, On the basis of Holy Scripture, the LCMS has directed, as recently as its most recent convention (2004 Res. 3-08A), that service in the Office of the Holy Ministry (*i.e.*, as ordained pastors) be restricted to men, and that women not serve in this office, and

WHEREAS, The above specified resolution (2004 Res. 3-08A) goes so far as to state, "Therefore be it *Resolved*, that the Synod affirm that women on the basis of the clear teaching of Scripture may not serve in the office of pastor *nor exercise any of its distinctive functions*" (emphasis added); and

WHEREAS, It is self-evident that "distinctive functions" of the pastoral office include far more than the minimalistic view of the pastor being simply present, vested, pronouncing the Absolution, preaching the sermon, and consecrating the elements for Holy Communion, but also leading the liturgy, offering the prayers, the distribution of Communion, and other duties involved with the role of the vested leader of worship; and

WHEREAS, Loose definitions of pastoral functions, particularly concerning roles in public worship, often result in the "minimalistic view" described in the previous WHEREAS, and, subsequently, may also open the door for women to appear vested (even without the pastoral stole specifically) in vestments specifically for liturgical leaders of worship (as opposed to choir robes) to carry out such "distinctive functions"; and

WHEREAS, 2004 Res. 3-08A does not simply expand privileges granted to women but also restricts how they may function in the above regard (in other words, the resolution is to function “both ways” as necessary, being more restrictive when necessary and not just allowing for increased privilege); therefore be it

Resolved, That Synod in convention reaffirm that the Office of the Holy Ministry, that is, the office of pastor, is to be exercised only by men; and be it further

Resolved, That Synod in convention also reaffirm 2004 Res. 3-08A’s statement that “women on the basis of the clear teaching of Scripture may not serve in the office of pastor *nor exercise any of its distinctive functions*” (emphasis added); and be it further

Resolved, That Synod in convention recognize that the “distinctive functions” of the pastoral office include far more than the minimalistic view of the pastor being simply present, vested, pronouncing the Absolution, preaching the sermon, and consecrating the elements for Holy Communion, but also leading the liturgy, offering the prayers, the distribution of Communion, and other duties involved with the role of the vested leader or leaders of worship (as per the fourth WHEREAS); and be it further

Resolved, That Synod in convention also recognize that, in respect to vestments, an obvious difference exists between vestments meant for the liturgical leaders of worship and vestments for members of the choir, junior confirmands, etc., and acknowledge that women should not be seen in the former (even without a pastor’s stole specifically) but that, insofar as a woman is participating in the choir, as musician, etc., that to appear in the latter is fine and good, even edifying and beneficial; and be it finally

Resolved, That, in every case where women currently serve in such a way as to carry out functions of the pastoral office as described in this overture/resolution, this practice be brought to an immediate end, to be enforced by the authorities of the LCMS district(s) in which these practices occur.

Trinity, Clinton, MA

L6-07

To Develop Abuse Education Materials and Programs

WHEREAS, Domestic violence in this country has reached epidemic proportions, with 31 percent of women experiencing physical assault from a partner¹, and 40 percent of teenage girls age 14–17 reporting knowing someone their age who has been hit or beaten by a boyfriend²; and

WHEREAS, In 1992, Synod President Dr. Alvin Barry recognized the gravity of this issue and convened the President’s Commission on Women to look into the problem of sexual misconduct in the church; and

WHEREAS, Although, in 2001, this commission produced and distributed to pastors two booklets entitled *Never Will I Leave You: A Pastor’s Handbook on Domestic Violence* and *Has God Abandoned Me?: A Christian Woman’s Guide to Domestic Violence*, these booklets are no longer in print; and

WHEREAS, Child abuse in this country has also reached epidemic proportions, with 2.5 million cases of child abuse reported each year³ and the actual incidence estimated at

three times that amount⁴, with one in three girls and one in seven boys sexually abused prior to the age of 18⁵; and

Whereas, Due to advances in technology via the Internet, pornography is more readily available than ever before and pedophilia attempts are escalating at an alarming rate; and

WHEREAS, Clergy sexual misconduct constitutes a portion of the abuse problem, and each congregation has a responsibility to monitor these situations and to protect parishioners from this type of misconduct; and

WHEREAS, Domestic violence is primarily perpetrated against females (95 percent of assaults are committed by men⁶), child abuse affects both males and females equally, so that in all cases, churches needs to equip themselves to deal with both female and male victims and perpetrators; therefore be it

Resolved, That the Synod appoint a committee, at the Synod President’s discretion, to examine these issues and provide materials and trained individuals to assist districts, congregations, and schools in addressing abuse and ministering to the spiritual needs of those struggling with the effects of abuse; and be it further

Resolved, That the Synod make these same materials and training available to seminary students; and be it further

Resolved, That the Commission on Theology and Church Relations (CTCR) examine these issues and comment specifically on the topics of forgiveness, repentance, and reconciliation in the context of abuse situations.

Notes

1. The Commonwealth Fund, *Health Concerns across a Woman’s Lifespan: 1998 Survey of Women’s Health*, May 1999.
2. Children Now/Kaiser Permanente poll, December 1995.
3. U.S. Department of Health and Human Services, Administration on Children, Youth and Families, “Child Maltreatment 2001” (Washington, DC: U.S. Government Printing Office, 2003). Online summary of findings: <http://www.acf.hhs.gov/programs/cb/publications/cm01/outcover.htm>.
4. U.S. Department of Health and Human Services, National Center on Child Abuse and Neglect. “Third National Incidence Study of Child Abuse and Neglect: Final Report (NIS-3)” (Washington, DC.: Government Printing Office, September 1996).
5. From the Faith Trust Institute Web site: http://www.faithtrustinstitute.org/indcx.php?p=Q_%26_A&s=49.
6. Bureau of Justice Statistics Selected Findings: *Violence between Intimates* (NCJ-149259), November 1994, and “A Report of the Violence against Women Research Strategic Planning Workshop” sponsored by the National Institute of Justice in cooperation with the U.S. Department of Health and Human Services, 1995.

Holy Cross, Mahwah, NJ
Bethlehem, Ridgewood, NJ
Redeemer, Westfield, NJ

L8-72

To Condemn Lawsuits and Encourage Repentance and Use of Dispute Resolution Process

Whereas, God has clearly stated in 1 Cor. 6 His intent that brothers in the faith not enter into lawsuits against one another: "If any of you has a dispute with another, dare he take it before the ungodly for judgment instead of before the saints? Do you not know that the saints will judge the world? And if you are to judge the world, are you not competent to judge trivial cases? Do you not know that we will judge angels? How much more the things of this life! Therefore, if you have disputes about such matters, appoint as judges even men of little account in the church! I say this to shame you. Is it possible that there is nobody among you wise enough to judge a dispute between believers? But instead, one brother goes to law against another—and this in front of unbelievers! The very fact that you have lawsuits among you means you have been completely defeated already. Why not rather be wronged? Why not rather be cheated? Instead, you yourselves cheat and do wrong, and you do this to your brother" (1 Cor. 6:1–8); and,

WHEREAS, Some members of our Synod initiated a lawsuit against our church and our elected leaders, commonly named the Anderson lawsuit, suggesting in it that not only our President and First Vice-President "for their own personal gain embarked upon a scheme to perpetuate themselves in office by evading and avoiding the official Missouri Bylaws of the LCMS" (see point 7 of the Anderson lawsuit), but also members of the Council of Presidents and district boards of directors, insofar as they complied with "sham requests" for exceptions solicited by our President and First Vice-President (see point 11 of the Anderson lawsuit); and

WHEREAS, This lawsuit is groundless and seeks to overturn elections and resolutions voted on by a convention delegate majority in the 2004 convention; and

WHEREAS, This is not only an unscriptural action for Christians but also a waste of over \$480,000 of Synod's mission money and personnel; therefore be it

Resolved, That the 2007 convention of The Lutheran Church—Missouri Synod condemn this lawsuit against our church; and be it further

Resolved, That we encourage these pastors and congregations to repent of their error and truly "build the unity of the Spirit in the bond of peace" (Eph. 4:12) by living as Christians in word and deed; and be it finally

Resolved, That these fellow Christians be encouraged to work within our dispute resolution process to resolve any disagreements they have with the decisions the majority of our delegates made in the 2004 convention.

Trinity
Roselle, IL

L1-18

To End Joint Campus Ministry with ELCA

WHEREAS, Synod in convention (2001) declared that the Evangelical Lutheran Church in America (ELCA) can no

longer be considered an orthodox Lutheran church body (Res. 3-21A); and

WHEREAS, There remain many areas where significant changes have occurred in the doctrine and practice of the ELCA where our Synod in all its entities has yet to respond, and where decades-old agreements with the ELCA's predecessor bodies remain in effect as if these changes never took place; and

WHEREAS, It is an insufficient response merely to express disappointment or declare the ELCA to no longer be an orthodox Lutheran church body, while continuing to maintain joint ministries that bear witness that there are no differences between our two church bodies; and

WHEREAS, As long as joint campus ministry arrangements exist between the ELCA and The Lutheran Church—Missouri Synod (LCMS), our LCMS college students will be subject to heterodox doctrine and pastoral care; and

WHEREAS, Given the nature of the fellowship agreements that the ELCA has entered into, ELCA college students can now receive pastoral care from various other denominational campus ministries, making agreements no longer a necessity; and

WHEREAS, The retreat from traditional, confessional Lutheranism has been unfolding in the ELCA and its predecessor bodies for decades, with the ELCA showing no signs of returning to doctrinal orthodoxy by their joint participation with the LCMS; therefore be it

Resolved, That the Wyoming District commend our faithful LCMS campus pastors and other workers serving in campus ministries for maintaining confessional integrity in providing genuine Lutheran Word and Sacrament ministry to those college students under their spiritual care; and be it further

Resolved, That the Wyoming District memorialize the 2007 convention of the LCMS to declare that our Synod will no longer engage in joint campus ministry of any description with the ELCA; and be it finally

Resolved, That the Wyoming District memorialize the 2007 convention of the LCMS to mandate that the President and Vice-Presidents of Synod oversee and supervise all districts, and any corresponding boards, commissions, or associations of Synod in detaching themselves from every vestige of joint campus ministry with the ELCA where joint work is being conducted on any level in the Synod no later than Dec. 31, 2009.

Wyoming District

L3-105

To End Practice of Licensing Lay Deacons for Word and Sacrament Ministry

Rationale

Article XIV of the Augsburg Confession states, "Concerning church government it is taught that no one should publicly teach, preach, or administer the sacraments without a proper [public] call" (Kolb/Wengert, p. 46).

Despite the clear language of AC XIV, the 1989 Synod convention authorized district presidents to license certain laymen to perform functions belonging to the pastoral office: preaching, leading in public worship, and administering the Sacraments under the supervision of an ordained minister in exceptional circumstances where no local pastor is available (Res. 3-05B).

The 1995 Synod convention resolved to put an end to this practice by requiring such licensed laymen to apply for admission into the pastoral ministry of The Lutheran Church—Missouri Synod within a grace period of no longer than two years or to allow their licenses to lapse (Res. 3-07A).

At the 2001 Synod convention, Res. 3-08 sought to end entirely the practice of licensing laymen for Word and Sacrament ministry by rescinding 1989 convention Res. 3-05B and 1995 convention Res. 3-07A by offering no new or renewal licenses and by instructing its districts to terminate any programs for the training of men for Word and Sacrament ministry. A substitute resolution (3-08B), however, was introduced and adopted that rescinded 1995 convention Res. 3-07A and authorized “districts to continue training lay deacons as directed by the spirit of 1989 Wichita Res. 3-05B in which trained lay ministers serve under the supervision of an ordained pastor.”

WHEREAS, The Scriptures and the Lutheran Confessions teach that the preaching of the Word and the administration of the Sacraments require a pastor with a regular call (Jer. 23:21; Rom. 10:15; Heb. 5:4; AC XIV); and

WHEREAS, A regular call requires training and examination in the sense of 1 Tim. 3:1–7 and Titus 1:5–9; and

WHEREAS, St. Paul cautions against placing anyone into the Office of the Public Ministry hastily (1 Tim. 5:22); therefore be it

Resolved, That The Lutheran Church—Missouri Synod rescind 1989 convention Res. 3-05B (establishment of licensed lay deacons to provide pastoral services) and 2001 convention Res. 3-08B (authorizing districts to continue the practice of training lay deacons); and be it further

Resolved, That The Lutheran Church—Missouri Synod instruct its districts to terminate any programs for the training of men for Word and Sacrament ministry; and be it finally

Resolved, That The Lutheran Church—Missouri Synod offer no new or renewed licenses to serve as a lay deacon, and to revoke the licenses of those men who are publicly preaching, teaching, or administering the Sacraments without a proper [public] call, in violation of AC XIV.

Waseca Circuit Forum
Minnesota South District

L4-38

To Authorize Exception to 2004 Res. 4-11 re Property Reversionary Provisions

WHEREAS, The Concordia College—New York Board of Regents, on February 2, 2007, authorized *CONCORDIA ON THE MOVE*, a plan for redeployment of assets to strengthen the college; and

WHEREAS, On February 15, 2007, the Board for University Education approved the *CONCORDIA ON THE MOVE*

program, contingent upon completion of a reversionary interest agreement between the college and the Synod; and

WHEREAS, Certain restrictive covenants between The Lutheran Church—Missouri Synod and Concordia College—New York are no longer enforceable because of a New York statute of limitations; and

WHEREAS, Concordia College—New York has been advised by its attorneys that it cannot execute new restrictive covenants with The Lutheran Church—Missouri Synod unless it receives fair market value consideration; and

WHEREAS, The board of regents has taken action to amend the bylaws of Concordia College—New York by adding a bylaw that can only be amended with the prior consent of The Lutheran Church—Missouri Synod, the bylaw providing that all net assets will be distributed to The Lutheran Church—Missouri Synod upon the dissolution or liquidation of the school; and

WHEREAS, Res. 4-11 of the 2004 convention of the Synod specifically required that such property reversionary provisions be included in the Articles of Incorporation of corporate agencies of the Synod; therefore be it

Resolved, That The Lutheran Church—Missouri Synod in convention authorize the bylaw solution provided by Concordia College—New York in lieu of the requirement of 2004 Res. 4-11 that such provisions be included in the Articles of Incorporation.

Commission on Constitutional Matters

L5-39

To Amend Bylaws re DCE Colloquy Admission and Curriculum

WHEREAS, The 2004 Synod *Handbook* states that “colloquy does not provide basic preparation for the field of service” (3.8.3.5 b); and,

WHEREAS, Director of Christian Education (DCE) programs throughout the Concordia University System have a fairly standardized program of study consisting of up to 56 semester hours of DCE-specific course content (not including internship and standardized theology coursework); and

WHEREAS, Initial teacher colloquy programs were designed to provide theology coursework for individuals who had received a teaching certificate from a non-LCMS institution so that they could enter the commissioned ministry of the LCMS and were not intended to provide an alternate route for acquiring a teaching certificate; and

WHEREAS, Very few non-LCMS alternate DCE preparation programs are available; and

WHEREAS, Almost every DCE colloquy candidate would be entering the colloquy program with a significant deficiency in DCE-specific coursework; and

WHEREAS, Several of the commissioned minister colloquy programs, notably teacher colloquy and deaconess colloquy, apply applicant criteria beyond that required of DCE colloquy applicants; and

WHEREAS, Formal, standardized expectations are indicative of established professions, rather than relying on subjective criteria that may vary with the perspectives of the individuals given the responsibility for oversight at any given time (e.g., “Additional admission requirements may

be established by the Board for University Education in consultation with the [Synod] Colloquy Committee for Commissioned Ministry and campus program directors”—from Bylaw 3.8.3.5.5); therefore be it

Resolved, That Bylaw 3.8.3.5.5 be amended to state: “Before submitting an application to the Director of Christian Education Colloquy Program, each prospective applicant shall have been a communicant member in good standing of a congregation of the Synod for at least the past two years and shall possess a bachelor’s degree from an accredited institution.

- (a) Each applicant shall have already received training to do the work of a director of christian education and shall have served at least three years in a recognized ministry of their previous church body.
- (b) Applicants who do not meet these requirements are to be directed to a Synod institution that offers a Director of Christian Education Program for enrollment in an undergraduate or alternate-route program.
- (c) Additional admission requirements may be established by the Board for University Education in consultation with the (Synod) Colloquy Committee for Commissioned Ministry and campus program directors.”

Board of Directors
Pacific Southwest District

L7-63

To Equalize Terms of Office

Rationale

Bylaw 3.2.4.2 speaks of successive terms of office for members of boards and commissions of the Synod. It establishes limitations of two successive terms for offices with six-year terms and three successive terms for offices with three-year terms “unless otherwise provided in the Bylaws.”

Res. 1-01 of the 2002 LCMS Black Ministry Family Convocation, “To Equalize the Tenures of the Board for Black Ministry Services,” petitioned the Commission on Structure to advocate increasing the term limitation for appointed members of the Board for Black Ministry Services from three three-year terms to four three-year terms, thereby equalizing the potential length of service of elected and appointed members of the board.

Noting the provision of Bylaw 3.2.4.2 (then Bylaw 3.61 b), which allows exceptions to its requirements when “oth-

erwise provided by the Bylaws,” the Commission on Structure recommended to the 2004 convention an amendment to Bylaw 3.8.4.1.1 (then Bylaw 3.801) to accommodate the request of the Black Ministry Family Convocation but also an amendment to Bylaw 3.2.4.2 to make this change general to all board and commission positions.

This proposed action from the commission (Overture 7-24, 2004 *Workbook*, p. 259) was proposed by Floor Committee 7 as Res. 7-10 but was not acted upon. The current Commission on Structure therefore again proposes this action to the 2007 convention.

Resolved, That Bylaw 3.8.4.1.1 be amended as follows:

PROPOSED WORDING

3.8.4.1.1 The President shall appoint from a list of at least three candidates for each vacant seat on the board.

- (a) These candidates will have been reviewed, evaluated, and approved by the representatives of the black congregations, meeting on convocation.
- (b) Vacancies on the board shall be filled by appointment by the President of the Synod from the remaining nominees on the same slate of candidates.
- (c) Elected members of the board shall be eligible to serve for two six-year terms, and appointed members shall be eligible to serve for four three-year terms.

and be it further

Resolved, That Bylaw 3.2.4.2 be amended as follows:

PRESENT/PROPOSED WORDING

3.2.4.2 All members of all boards and commissions of the Synod shall be ineligible for reelection or reappointment to the same board or commission after serving ~~a total of two successive six year elected terms or three successive appointed or elected three year terms~~ twelve successive years, unless otherwise provided in the Bylaws.

- (a) Such persons may become eligible again for election or appointment to the same office, board, or commission after an interval of three or more years.
- (b) One-half or more of a term shall be regarded as a full term under limited tenure rules.
- (c) Any member of a board or commission who is ineligible for reelection or reappointment may be elected or appointed to another position.

Commission on Structure

**REPORTS AND OVERTURES
CORRELATED WITH RESOLUTIONS**

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*Deceased prior to March 23, 2004,
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