

Request for Opinion on “Unilateral Excommunication”

In September 2007 a request for a theological opinion was directed to the Commission on Theology and Church Relations in behalf of the President and Praesidium of the Northwest District of The Lutheran Church—Missouri Synod. The specific question posed to the Commission was whether “a pastor, on his own and unilaterally, can excommunicate a person.”

This question embraces questions of ecclesiology, the office of the ministry, and church polity; questions that have been formational in the Lutheran experience in America generally, and in the experience of The Lutheran Church—Missouri Synod specifically. The church is the entire “congregation of the saints” whom the Holy Spirit has called through the Gospel and to whom God gives the keys principally and immediately. The ministry is the divinely established office of service to whom is committed the public exercise of the keys on the congregation’s behalf.¹ The manner and mode in which church discipline is exercised on the congregation’s behalf falls into the adiaphoral realm of polity, which is not disassociated from the doctrines of church and ministry, but neither is it absolutely established by Scripture. The baptized priesthood and the office of the public ministry both exist according to God’s will. As such, they should be seen as complimentary and not competitive realities. Nonetheless, historical circumstances have at times suggested different modes of the carrying out of church discipline.

In Lutheran Germany “the church” often referred to the territorial church and/or a portion thereof (the consistory), which represented the congregations of that church. As such, church discipline/excommunication was carried out by “the church” as represented by the bishop/pastor, but often with little direct input from the congregation. This is what is described in the Apology of the Augsburg Confession: “. . . bishops have the power of the order, namely, the ministry of the Word and sacraments. They also have the power of jurisdiction, namely, the authority to excommunicate those who are guilty of public offenses or to absolve them if they are converted and ask for absolution.”² Commenting and expanding on this point, the Commission on Theology and Church Relations of The Lutheran Church—Missouri Synod has stated:

In specifying that bishops have the right of jurisdiction, the confessors hasten to add that this is not a power given to bishops alone. “It is certain that the common jurisdiction of excommunicating those who are guilty of manifest crimes belongs to all pastors. This the bishops have tyrannically reserved for themselves alone and have employed for gain” (Treatise, 74). Furthermore, when speaking of the power of bishops, the Confessions warn against “violent use of the ban” (AC XXVIII, 2) and complain about the “unjust excommunication” of kings and “especially of the emperors of Germany.” (Treatise, 35)³

Because of the relationship between church and state in Reformation-era Germany, statements describing the excommunication by bishops/pastors must be understood in their historical

¹ C. F. W. Walther, *Church and Ministry: Witnesses of the Evangelical Lutheran Church on the Question of the Church and the Ministry*, J. T. Mueller, trans. (Saint Louis: Concordia, 1987), 19, 22, 220.

² Apology of the Augsburg Confession, XVIII, 13 (Kolb/Wengert).

³ Commission on Theology and Church Relations, *Church Discipline in the Christian Congregation* (1985),

context as descriptive rather than prescriptive. They do not establish a dominically-mandated polity, but rather reflect the practice of the church in a particular place and time.

In the United States, where Lutheranism established itself independent of the state, the historical circumstances demanded a different mode of application/polity. Lacking pastors in many cases, the priesthood of all believers was forced at times to exercise church discipline on its own apart from a pastor. For example, Hopeful Church in Boone County, Kentucky (founded 1806), sought to articulate a biblical manner of applying church discipline in a context where a pastor might only be present briefly over the course of a year or not be present at all.

It shall be the duty of each one belonging to this congregation to lead an orderly, christian, and virtuous life; to abstain from all gross sins; such as cursing, swearing, card-playing, drunkenness, and all such ungodly actions.

Should any one be guilty of either of the above sins, which, may God in his mercy prevent, then the remaining brethren shall have the power, and it shall be their duty to deal with him according to the directions of our Savior; Mat. 18:15-17.⁴

In so doing, the members of Hopeful Church simply carried out its responsibilities as baptized priests.

When the Saxon immigrants who later helped form the Missouri Synod came to the United States (1838/39), they first established the office of bishop, which they believed was the biblically mandated polity. To the bishop they promised to “submit with Christian willingness” in respect to “the ordinances, decrees, and measures of His Reverence in respect to both ecclesiastical and community affairs and not to regard them as an irksome yoke, but as the means of promoting our temporal and eternal welfare.”⁵ Excommunication would be carried out solely by the bishop. After the bishop’s deposal for immorality, calls were made for a form of radical congregationalism, which largely disestablished the office of the public ministry. Only at the Altenburg Debate in 1841 did C. F. W. Walther restore a biblical and confessional balance to the community.⁶ When the LCMS was formed in 1847, it affirmed the biblical and confessional position of Walther.

For example, at the first convention of the LCMS (Chicago 1847), one of the orders of business was the question of false doctrine on the part of Pastor L. F. E. Krause. Among the many charges against him—most of which centered in an arbitrary exercise of ministerial authority apart from the congregation and of which he was found guilty—was the following:

Concerning excommunication, he has revealed false doctrine; for he imposed the ban upon a man named M. Krücher because that man did not immediately believe

⁴ David Harbaugh, *A History of the Evangelical Lutheran Congregation of Hopeful Church, Boone County, Kentucky. Being a Discourse Delivered at Its Forty-Eighth Anniversary, on the 6th Day of January, 1854* (Cincinnati: S. V. Crossman, Printer, 1854), 5-6.

⁵ “Pledge of Subjection to Stephan,” in Walter Forster, *Zion on the Mississippi: The Settlement of the Saxon Lutherans in Missouri 1839-1841* (Saint Louis: Concordia, 1953), 294.

⁶ For the text of Walther’s “Altenburg Theses,” see Forster, *Zion on the Mississippi*, 523-25.

a report of Pastor Grabau, which was called “Church Acts,” and has refused the Lord’s Supper to those who had not consented to the ninety dollars for him, which he absolutely demanded, without considering otherwise cheap suggestions, for the acquisition of a horse. In addition in every case he put the ban into effect without the pronouncement of judgment by the congregation; — he also excommunicated people who did not even belong to his congregation....⁷

From its inception the LCMS has seen excommunication as an act of the entire church, carried out in the context of the local congregation.

In the United States, “the church” specifically takes the form of the local congregation independent from the state. When C. F. W. Walther expanded on his earlier Altenburg Theses at the request of the Synod, he produced a series of theses that affirmed both the church as the priesthood of all believers and the divine establishment of the office of the public ministry. How church discipline is practiced in this setting was part of Walther’s burden in *Church and Ministry*. In Thesis IX Walther writes: “To the ministry there is due respect as well as unconditional obedience when the pastor uses God’s Word. But the minister must not tyrannize the church.... He has no right to inflict and carry out excommunication without his having first informed the whole congregation.” Walther expands on this thesis as follows:

It is certain that the office of the keys in a more narrow sense, namely, the power publicly to loose and bind, is also entrusted to the incumbents of the ministry of the Word. Nevertheless, it does not lie within the power of the minister to excommunicate a sinner without his having first informed the congregation. Otherwise the congregation would have to obey the minister blindly, even in matters pertaining to salvation. Here he deals not merely with a clear doctrine of the divine Word but with a judgment of a person’s spiritual condition. And this judgment is of such a nature that it closes heaven to the person in question and forbids him brotherly fellowship with Christians, and vice versa. Therefore, although the public enforcement of excommunication belongs to and must remain with the incumbents of the ministry of the Word, according to the Lord’s command and sacred institution, nevertheless, it must be carried out according to the Lord’s express command and order only after the whole congregation (that is the minister and the hearer) has considered and made the final judicial decision on the matter.

Walther concludes, “Here Christ gives the supreme jurisdiction to the church or congregations....” Thus it is the responsibility of the holder of the office of the public ministry to ensure that church discipline is carried out on behalf of the congregation, but any excommunication “is valid and legitimate if only it is accomplished with the knowledge and consent of the church members.”⁸

On the basis of the biblical and confessional witness, the CTCR has affirmed Walther’s articulation of the question of whether a pastor may “unilaterally” excommunicate. While it

⁷ 1847-01, “Rejection of L.F.E. Krause’s Teaching,” *Erste Synodal Bericht*, pp. 11b-13a.

⁸ Walther, *Church and Ministry*, 321-22.

recognizes that in some cases the congregation may delegate the responsibility of excommunication to a Board of Elders and/or pastor to act in its behalf, it cautions against such a practice.⁹ Excommunication, therefore, is not a power conferred upon the individual pastor to exercise apart from 'the church.' Rather, the called servant of the Word will announce the judgment of the church on its behalf only after the matter has been brought to and adjudicated by the church (Matthew 18:15-18).

The opinion, therefore, of the CTCR remains this: "We ought not interpret these confessional statements regarding the power of bishops and pastors as teaching that those who have been given authority over the churches thereby have the right to excommunicate unilaterally."¹⁰

Adopted by the CTCR
April 23, 2010

⁹ CTCR, *Church Discipline in the Christian Congregation*, 25: "Is it proper for a congregation to delegate to the elders, to the church council, and/or to the pastor the authority to excommunicate? The question is probably prompted by the desire to give as little publicity to the sin or error as possible (see question 10 on legal considerations). It should be noted that a kind of delegation has already taken place when the voters' assembly, as is generally the case, is authorized to act in the name of "the church." It is no doubt within the power of the congregation to ask the Board of Elders and/or pastor [to] act in its behalf. Whether it is wise to delegate authority in such a serious matter may well depend on the circumstances, but in general this is a questionable practice." The CTCR, however, does recognize that pastors have the responsibility in certain cases to suspend individuals from communion: May a pastor suspend a person from communion? Although a pastor may not himself excommunicate without the congregation, he may, in the interest of a person's spiritual welfare, refuse to commune one whose presence at the altar would be a source of offense to other members of the congregation, or one living in unrepentant sin who is still being dealt with on a personal basis by himself or others. If, for example, a member has embezzled church funds and the matter is known but the problem has not been resolved (there has been neither absolution on the one hand nor excommunication on the other), the pastor may insist that the party involved absent himself from the table of the Lord. This suspension must always be temporary, however until the matter has been resolved in one way or the other. Any appeal from such suspension must be acted on properly by the congregation, with the party involved, by virtue of the appeal thereby forfeiting any privacy that may have previously been his" (CTCR, *Church Discipline in the Christian Congregation*, 21).

¹⁰CTCR, *Church Discipline in the Christian Congregation*, 10.