

Pastoral Responsibility and the Office of the Keys in the Book of Concord

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That the prime Act of Power enstated by *Christ* on his *Apostles*, as for the governing of the *Church*, (and exorcising or banishing all devils out of it) so for the effectual performing that great act of Charity to mens souls, reducing pertinacious sinners to repentance, should be so either wholly dilapidated, or piteously deformed, as to continue in the *Church* only under one of these two notions, either of an empty piece of *formality*, or of an *engine of State*, and saecular contrivance, (the true *Christian* use of *shaming* sinners into reformation, being well-nigh vanished out of *Christendome*) might by an alien, or an heathen, much more by the pondering *Christian*, be conceived very strange and unreasonable, were it not a title clear, that we are faln into those times of which it was foretold by two *Apostles*, that in *these last dayes, there should come scoffers, walking after their own lusts*: the *Pride* and contumacy (which have almost become the *Genius*) of this profane polluted age, heightning men to an *Atheistical* fearlesse *scoffing* and scorning of all that pretends to work any cures, to lay any restraint on them, to rob them of any degree of that licentiousnesse, which is become the very religion, and doctrine of some (under the disguise of *Christian liberty*) and (*the Lord be merciful unto us*) the practise of most rankes of *Christian Professors*.¹

Almost all observers (regardless of their personal theological convictions) understand that the Lutheran Church—Missouri Synod (LC—MS) is in a state of crisis. There is a great deal of debate on various matters related to this situation, such as the *origin* and *duration* of the crisis; whether it's nature is *political*, *theological*, or both; whether it may be resolved within the current synodical structure or whether it must necessarily lead to a split. Nevertheless, despite such debates, the fact of the crisis remains.

In this paper, the presenter will endeavor to set forth what he believes to be one of the primary sources of the crisis, and the responsibility which rests upon pastors to confront the doctrinal error which has given rise to so many years of conflict. It is our contention that the Missourian crisis rests in a fundamental error concerning the nature of the pastoral office. To state the matter succinctly, the crisis in the LC—MS strikes as the very heart of the pastoral office because it is rooted in an effort to undermine—even eliminate—pastoral responsibility for the exercise of the office of the keys. The clear teaching of the Book of Concord has been set aside in a return to what are essentially self-appointed bishops in the offices of district presidents, who imagine themselves, especially in light of resolutions adopted at the 2004 convention of the synod, to have ultimate authority over the binding and loosing of sin within the Church. This unscriptural situation cannot be tolerated within Christ's Church. The Church's enduring confession in such a situation is set forth in the clear words of the Treatise on the Power and Primacy of the Pope:

¹ [Harry Hammond,] *Of the Power of the Keyes: or, Of Binding and Loosing*. London, Printed for Richard Royston, at the Angel in Ivie-Lane. 1647, A 1

Since, therefore, bishops have tyrannically transferred this jurisdiction to themselves alone, and have basely abused it, there is no need, because of this jurisdiction, to obey bishops. But since the reasons why we do not obey are just, it is right also to restore this jurisdiction to godly pastors [to whom, by Christ's command it belongs], and to see to it that it be legitimately exercised for the reformation of life and the glory of God. (¶76)²

Pastoral Responsibility and the Reformation

Lutherans are taught from childhood to celebrate Martin Luther's *Ninety-Five Theses* as a bold confession against papal indulgences, but they rarely give much thought to the actual *reason* why such a stand was necessary for Luther. The Lutheran Reformation began because of a conflict over the connection between pastoral responsibility and the office of the keys—Luther's conflict with the papacy began because he protested papal interference in the pastor's ability to carry out his office. As H. E. Jacobs observed in his biography of Luther: "[The 95 Theses] were the outcome of his pastoral fidelity to the souls with whom he had to deal in the confessional. ... His criticism was called forth, not by papal Indulgences in themselves, but what he had found to be their abuse in a specific case falling under his pastoral jurisdiction."³ Heiko Oberman also emphasized the pastoral nature of Luther's concerns regarding indulgences: "This whole indulgences issue, this selling of insurance as protection against the wrath of God is the appalling consequence of Rome's assiduous efforts at securing inward and outward dominion over the people of God. ... Luther's comment: 'Never before has the Church been so desolate.'"⁴ Oberman noted that although indulgences left in place the *form* of the traditional rite of confession, they emptied it of its *substance*: "Plenary indulgences, which only the pope could offer, promised the complete remission of punishment *and* sin, so that though a visit to the confessional was still necessary, contrition, the condition for forgiveness of sin, could be proven by the possession of a plenary indulgence."⁵ With contrition taken for granted if one possessed a plenary indulgence, and no need for further works of satisfaction, pastoral jurisdiction was emptied of any meaning or substance.⁶ Luther's theses directly confronted such papal interference in pastoral jurisdiction. Thus we read, for example:

5. The pope has neither the will nor the power to remit any penalties beyond those imposed either at his own discretion or by canon law.
6. The pope himself cannot remit guilt, but only declare and confirm that it has been remitted by God; or, at most, he can remit it in cases reserved to his discretion. Except for these cases, the guilt remains untouched.
7. God never remits guilt to anyone without, at the same time, making him humbly submissive to the priest, His representative.⁷

² Note: all English citations from the Book of Concord are from the H. E. Jacobs edition (Decatur, Illinois: The Johann Gerhard Institute, 1996).

³ Henry Eyster Jacobs, *Martin Luther: The Hero of the Reformation*, (New York and London: G. P. Putnam's Son, 1902) p. 59–60.

⁴ Heiko A. Oberman, *Luther: Man between God and the Devil*, trans. by Eileen Walliser-Schwarzbart, (New Haven & London: Yale University Press, 1989) p. 72.

⁵ *ibid.*, p. 75–77.

⁶ Plenary indulgences thus created a situation in the Church which is analogous to have immunity from discipline for one's sinful actions because one had permission from one's ecclesiastical supervisor.

⁷ in *Martin Luther: Selections from his writings*, ed. by John Dillenberger (Garden City, New York: Anchor Books, 1961) p. 490–1.

The pastoral relationship expressed in thesis 7 is central to the catechism's explanation of absolution. In his Small Catechism, Dr. Luther cut through the Gordian knot of 'reserved cases,' indulgences, and the rest of papal interference with a single question and answer: "What is confession? *Answer.* Confession consists of two parts: the one is, that we confess our sins; the other, that we receive absolution or forgiveness through the pastor [*Beichtiger/ confitemur*] as of God Himself, in no wise doubting, but firmly believing that our sins are thus forgiven before God in heaven." (SC Of Confession.16) Whereas the papacy presents the person of the pope as *the* vicar of Christ on Earth, Luther's catechesis instructed the Christian that Christ is active throughout the Church through the office of the ministry of Word and Sacrament. Thus the Church confesses in *Augustana* V: "That we may obtain this faith, the Office of Teaching the Gospel and administering the Sacraments was instituted. For through the Word and Sacraments as through Instruments, the Holy Ghost is given, who worketh faith where and when it pleaseth God in them that hear the Gospel..." (¶1-2) And *Augustana* VII defines the Church as that *congregatio sanctorum* gathered around the proper exercise of that office: "The Church is the congregation of saints, in which the Gospel is rightly taught and the Sacraments rightly administered." (¶1) Or in Luther's words of the Smalcald Articles: "For, thank God, to-day a child seven years old knows what the Church is, viz. saints, believers and lambs who hear the voice of their Shepherd." (III.XII.2) The voice of the Shepherd is heard in the 'spoken Word' proclaimed by the called servants of the Lord. Thus Luther declared: "Therefore in regard to this we ought and must constantly maintain that God does not wish to deal with us otherwise than through the spoken Word and sacraments, and that whatever without the Word and sacraments is extolled as spirit is the devil himself." (SA III.X.10)

The Christian is directed to his pastor so that he may receive forgiveness: "Moreover, the power of the keys administers and presents the Gospel through absolution, which is the true voice of the Gospel. ... And because God truly quickens through the Word, the keys truly remit sins before God, according to Luke 10:16: 'He that heareth you heareth Me.' Wherefore the voice of the one absolving must be believed not otherwise than we would believe a voice from heaven." (AP XII.39, 40) And Luther teaches that the responsibility for rebuking evil resides with pastors: "Thus you see, in short, it is forbidden to speak any evil of our neighbor, and yet the civil government, preachers, father and mother are excepted, that this commandment may be so understood that evil be not unreprieved. ... For here necessity requires one to speak of the evil, to make accusation, to investigate and testify;" (LC 8th Commandment.274-5).

Perhaps it is hard for modern man, living in an age of denominationalism and large institutional churches, to fully grasp the radical character of the Evangelical Lutheran understanding of the ministry and the Church. The Lutheran Confessions certainly do not deny that orthodox Christians recognize fellowship with one another, and express such fellowship in ecclesiastical structures, with, it should be remembered, a marked preference for an episcopal polity ("... we will gladly maintain ecclesiastical and canonical order, provided the bishops only cease to rage against our Churches." ([AP XIV:28])). Nevertheless, the identification of "Church" is first, and primarily, applied to the *congregatio sanctorum* gathered around the faithful exercise of the office of the ministry. In the words of the Apology: "And we know that the Church is with those who teach the Word of God aright, and administer the sacraments aright, and not with those who not only by their edicts endeavor to efface God's Word, but also put to death those who teach what is right and true;..." (XIV:27)

Throughout the Lutheran Confessions, the link between the office of the keys and pastoral responsibility is expressed primarily on the parish level. The episcopate may be established as a visible (even preferable) representation of the unity of those united in doctrine and practice. But the Lutheran Confessions clearly teach that the bishop *does not* possess any higher authority with regard to pastoral jurisdiction. Thus we confess in the Treatise on the Power and Primacy of the Pope:

“For with the exception of ordination, what does the bishop that the elder [presbyter] does not?” Jerome therefore teaches that it is by human authority that the grades of bishop and elder or pastor are distinct. And the subject itself declares this, because the power is the same, as he has said above. But one matter afterwards made a distinction between bishops and pastors, viz. ordination, because it was so arranged that one bishop might ordain ministers in a number of churches. But since by divine authority the grades of bishop and pastor are not diverse, it is manifest that ordination by a pastor in his own church has been appointed by divine law [if a pastor in his own church ordain certain suitable persons to the ministry, such ordination is, according to divine law, undoubtedly effective and right]. (Treatise ¶62–65)

Again, the Treatise explicitly maintains that responsibility for jurisdiction resides in the pastoral office: “The Gospel has assigned to those who preside over churches the command to teach the Gospel, to remit sins, to administer the sacraments, and besides jurisdiction, viz. the command to excommunicate those whose crimes are known, and again of absolving the repenting. And by the confession of all, even of the adversaries, it is clear that this power by divine right is common to all who preside over churches, whether they be called pastors, or elders, or bishops.” (¶60–61) Thus we see that “divine law”⁸ assigns ordination to “a pastor in his own church”⁹. Again, “divine right”¹⁰ has assigned¹¹ jurisdiction (the binding and loosing of sins through absolution and excommunication) to the pastoral office. This passage therefore explains the intention of *Augustana* XXVIII where we confess:

...that the power of the Keys, or the power of the bishops, according to the Gospel, is a power or commandment of God, to preach the Gospel, to remit and retain sins, and to administer sacraments. For with that commandment, Christ sends forth His Apostles [John 20:21ssq.]: “As My Father has sent Me, even so send I you. Receive ye the Holy Ghost. Whosoever sins ye remit, they are remitted unto them; and whosoever sins ye retain, they are retained.” (¶5–6)

The Apology declares in the same article: “But we are speaking of a bishop according to the Gospel. ... Therefore the bishop has the power of the order, i.e. the ministry of the Word and sacraments; he has also the power of jurisdiction, i.e. the authority to excommunicate those guilty of open crimes, and again to absolve them if they are converted and seek absolution.” (¶13)

Thus we see that in *Augustana* XXVIII we use the term ‘bishop’ as it is used in Holy Scripture: to refer to the *one office* of the holy ministry. However, in the Treatise, the term ‘bishop’ is used to refer to that *grade* established by human authority¹² within the one office. The Lutheran Confessions thus do not concede any other authority to the grade of office referred to as ‘bishop’ than to perform ordinations as a visible expression of unity in doctrine and practice: “We have spoken of ordination, which alone, as Jerome says, distinguished bishops from other elders. Therefore there is need of no discussion concerning the other duties of bishops. Nor is it indeed necessary to speak of confirmation, nor of consecration of bells, which are almost the only other things which they have retained.” (Treatise ¶73)

Throughout the confessions, the authority to loose and bind are treated always mentioned together as responsibilities of the office of the ministry. One is never left with the sense that the pastor has authority to loose the sins of the repentant, but requires ‘approval’ from any third party to bind the sins of the impenitent. The symbols specifically repudiate the idea that bishops have a higher authority concerning the

⁸ *jure divino*

⁹ *manifestum est ordinationem a pastore in sua ecclesia factam jure divino ratam esse*

¹⁰ *jure divino*

¹¹ *tribuit*

¹² *humana auctoritate*

exercise of the office of the keys, and the Lutheran Confessions know nothing of ‘voters assemblies.’

The Roman notion that bishops have a higher authority with regard to the office of the keys is emphatically rejected in the Lutheran Confessions: “It is manifest that the common jurisdiction of excommunicating those guilty of manifest crimes belongs to all pastors. This they [i.e., the bishops] have tyrannically transferred to themselves alone, and have applied it to the acquisition of gain.” (Treatise ¶74) Such tyranny in the Church is sufficient grounds to refuse obedience to such bishops, to overturn their usurpation of pastoral jurisdiction, and to restore the office of the keys to those to whom the Lord of the Church entrusted that responsibility.

Since, therefore, bishops have tyrannically transferred this jurisdiction to themselves alone, and have basely abused it, there is no need, because of this jurisdiction, to obey bishops. But since the reasons why we do not obey are just, it is right also to restore this jurisdiction to godly pastors [to whom, by Christ’s command it belongs], and to see to it that it be legitimately exercised for the reformation of life and the glory of God. (¶76)

The argument set forth with the posting of the *Ninety-Five Theses* reached its final confessional formulation in the Treatise. Interference in pastoral jurisdiction is one of the central reasons why the authority of the pope, and those bishops who submit to him, is rejected.

Since, therefore the bishops, who are devoted to the Pope, defend godless doctrines and godless services, and do not ordain godly teachers, yea aid the cruelty of the Pope, and besides have wrested the jurisdiction from pastors, and exercise this only tyrannically [for their own profit]; and lastly, since in matrimonial cases they observe many unjust laws; the reasons why the churches do not recognize these as bishops are sufficiently numerous and necessary. (¶79)

The early Lutheran fathers clearly properly understood the nature of pastoral jurisdiction, a fact readily documented from the writings of several of the formulators of Concord. As authors of the Formula of Concord, their insights into the whole the of the Lutheran Confessions are of particular value. Therefore we will take a brief look at two works by David Chytraeus and Martin Chemnitz.

David Chytraeus wrote his *Summary of the Christian Faith* in 1568 as a textbook for the catechetical instruction of young men. In that work, Chytraeus set forth absolution, excommunication, and the office of the keys as follows:

What is absolution?

Absolution is the announcement of the forgiveness of sins by which the minister of the Gospel bears witness in the name of Christ that the person who repents of his sins and asks for pardon has been released and is free from sin, the wrath of God, and eternal condemnation.

What is excommunication?

Excommunication is the official declaration of the wrath of God and of eternal damnation by which the minister of the Gospel in the name of Christ states that sinners who were admonished and are not confessing their sins nor asking for pardon are guilty of the wrath of God and of eternal damnation, excludes them from the fellowship of the Church and hands them over to Satan for the destruction of the flesh that the spirit might be saved, Matt. 18, 1 Cor. 5 and 6, 1 Tim. 5.

What are the keys?

The keys of the kingdom of heaven are the power or the ministry to loose and to bind, or

to remit and retain sins. This ministry was instituted by Christ and was given to the Church. By it the minister of the Church, through the Word of the Gospel, announces in Christ's name the forgiveness of sins, the granting of the Holy Spirit and of eternal life to many and to individuals who are repentant and seeking pardon; and binds and excommunicates those who persevere in their sins securely and stubbornly.¹³

We observe that for both absolution and excommunication it is “the minister of the Gospel” who “bears witness in the name of Christ” and “announces in Christ's name”—not in the name of the bishop, district president or voters assembly—of the loosing or binding of sins. After all, the keys are “the ministry to loose and bind, or to remit or retain sins.” Lest there be any doubt concerning the nature of the ministry—that it is a specific office, and not a general calling—Chytraeus further explained:

What is the ministry of the Gospel?

The ministry of the Gospel is the office which God has instituted, the office of preaching and confessing the Word of God, the Law and the Gospel concerning Christ, in the public assembly of the Church; of rightly administering the sacraments; of announcing the forgiveness of sins or of absolving those who repent; of excommunicating the obstinate; and of ordaining ministers of the Church, through which ministry God is truly effective for the salvation of all who believe, Luke 24; Matt. 10, 18 and 28; Rom. 10; Eph. 4; 1 Tim. 5; 2 Tim. 2.¹⁴

Finally, Chytraeus included a comparison between two of the estates, the Church and the State. Listing the differences “between the ministry of the Gospel and political power,” Chytraeus lists, “Third, they differ in *punishments*. The magistrate restrains and punishes the disobedient with physical force or the sword. The ministry of the Gospel reproves solely with the word or voice of the Law and with lawful excommunication.”¹⁵

Martin Chemnitz makes the same points in his *Enchiridion*.¹⁶ Chemnitz extolled the virtues of private absolution, and, as regards the impenitent, the responsibility of “the minister to use, not the loosing, but the binding key against such people.”¹⁷ He observed regarding pastoral jurisdiction:

But if ever in the ministry they bind and retain sins to the impenitent, according to the Word of God, with threat of divine wrath and curse, they should know that this is regarded as valid and certain also in heaven. In the same way, if they loose and forgive sins by proclaiming the grace of God to the penitent and believing, they should be sure that it is not only good words (as is commonly said), but that the same is also certain and confirmed in heaven (Mt. 16:19). Similarly the name keys should admonish the hearers not to despise the Word and ministry and regard it as a vain sound of words by which only the ears are struck, but that they might know and be firmly persuaded that if they want to enter the kingdom of heaven, the approach and entrance is not given and granted to them except through these keys.¹⁸

More witnesses could easily be evaluated to continue to emphasize these points, but time does not permit and the matters at hand have already been adequately established from the Lutheran Symbols themselves.

¹³ David Chytraeus, *A Summary of the Christian Faith*, (Decatur, Illinois: Repristination Press, 1997) p. 134-5.

¹⁴ *ibid.*, p. 144.

¹⁵ *ibid.*, p. 145.

¹⁶ translated as *Ministry, Word, and Sacraments: An Enchiridion*, trans. by Luther Poellot (St. Louis: Concordia Publishing House, 1981).

¹⁷ *ibid.*, p. 135.

¹⁸ *ibid.*, p. 133.

Due diligence to study of the symbols amply reveals how far the LC—MS has fallen from the confessional understanding of pastoral responsibility.

Pastoral Responsibility and the Crisis in the LC—MS

A great deal of attention has rightly been given to the ‘episcopal’ power grab at the heart of 2004 Resolution 8-01A.¹⁹ The decision to give district presidents indisputable authority as the final arbiters of all controversy in the Church is a naked repudiation of pastoral responsibility as set forth in the Lutheran Confessions. However, 8-01A is only the latest iteration of failed ‘reconciliation’ processes in the recent history of the synod. The spiritually bankrupt “win-win” system (which seemed institutionally oblivious to the reality of sin and the need for confession) was simply replaced by the “I-say-who-wins” system of Gerald I.

How shall the confessional pastor respond to 8-01A? The previous ‘reconciliation’ process was, in the opinion of this presenter, already being abused to harrass confessional pastors and interfere with pastoral responsibility. The new system is even more open to such abuse for it makes the district presidents the decision makers concerning who will, or will not, face charges which could lead to expulsion from the synod. The presenter personally experienced how a district president imagined himself to be the final authority regarding the merits of a case of church discipline carried out within a congregation. With the broadly expanded authority of 8-01A, it may be anticipated that such papistical interference will only continue and grow far worse.

So how shall the confessional pastor respond to such tyranny? The pastor’s responsibility before the Holy Trinity has *not* changed: he is still the one to whom the ministry of Word and Sacrament has been entrusted; he is still the one charged with the responsibility to bind and loose sins within the Church. The pastor *must* fulfill his office, therefore, regardless of how the rump bishops puff themselves up. This means one must be willing to suffer the abuse which they can dish out: a faithful pastor may find himself expelled from the synod for being faithful to his call. You will find that, at the end of the day, that doesn’t hurt you anywhere near as much as they want it to. If you are expelled from the synod for faithfully fulfilling your office, it is true that the congregation where the Lord has called you to serve will face a choice. If you have been expelled from synod for faithfully serving the Lord in their midst, one would hope and pray that they would also be faithful. But what is the worst that could happen? That they would fail to be faithful, and remove you from your call *because* you were faithful in your calling? Better to have a clean conscience with regard to faithfully fulfilling your office than to prove one’s self a hireling.

All confessional Lutheran pastors have taken an oath to the Holy Trinity to fulfill their ministries in accord with the Holy Scriptures and the Lutheran Confessions. It is the pastor who hears the charge given by inspiration of God through St. Peter: “Shepherd the flock of God which is among you, serving as overseers, not by compulsion but willingly, not for dishonest gain but eagerly; not as being lords over those entrusted to you, but being examples to the flock; and when the Chief Shepherd appears, you will receive the crown of glory that does not fade away.” (1 Pet. 5:2–4 NKJV)

—soli Deo gloria—

¹⁹ The presenter has endeavored to deal with this resolution in two previous presentations: *Authority and Unity in the Church* and *“Here we have no Continuing City”* (both available at saulemlutheranchurch.net).