

The Law in Counseling

How do you deal with those who do not repent?

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IDE-CID Fall Pastors' Conference, 6-8 October, 2014

“Being not only a teacher who dispenses the means of grace, but also a watchman, a bishop, a shepherd, and one who is to rule well, a pastor is in duty bound to see to it that the members of his congregation obey the divine Word and that therefore, if necessary, Christian church discipline is exercised.”

John H.C. Fritz, Pastoral Theology, 2nd ed. 1945. P. 232.

Presenting the Case for Church Discipline:

Hurdles:

- * Familial relations
- * The belief that discipline chases people away
- * The uncomfortable feeling of confrontation
- * Millennials (and gen. Xers) belief that they are special and above reproof
- * Nearby Churches who will disagree and undo your efforts
- * Past history of no discipline
- * Worry about losing members and therefore losing money
- * An inability to distinguish unrepentance from one's own sins.

Popular ways of not exercising discipline (*Functional Antinomianism*)

- * Stay quiet and pretend you didn't hear about someone's sin.
- * Speak against it to your elders but never actually speak to the offending party.
- * Fain patience by “giving them time” to work through it, but never actually get around to dealing with it.
- * Scold the sinner privately (and mildly) and then never follow up on the rest of Matt. 18
- * Weigh who they are, how much they give, and decide the costs are too high to practice discipline.
- * Piously decide that it is not good to uproot the grain with the weeds, so decide (on “biblical” grounds) it is best left alone.

Why Should We Deal with Those who will not Repent?

1. That they might be restored to Christ through forgiveness.

2 Cor. 2:6-11 This punishment which was inflicted by the majority is sufficient for such a man, ⁷ so that, on the contrary, you ought rather to forgive and comfort him, lest perhaps such a one be swallowed up with too much sorrow. ⁸ Therefore I urge you to reaffirm your love to him. ⁹ For to this end I also wrote, that I might put you to the test, whether you are obedient in all things. ¹⁰ Now whom you forgive anything, I also forgive. For if indeed I have forgiven anything, I have forgiven that one for your sakes

in the presence of Christ, ¹¹ lest Satan should take advantage of us; for we are not ignorant of his devices.

Unrepentance damns people –

Acts 3:19 Repent therefore and be converted, that your sins may be blotted out, so that times of refreshing may come from the presence of the Lord,

2. Sin unchecked will infect other doctrines and other people

1 Cor. 5:6 Paul's reason when dealing with the case of incest at Corinth:
"A little leaven leavens the whole lump."

Disobedience to the law affects one's understanding of the Gospel.

The Gospel becomes a cover for disobedience instead of God's power over sin.

3. It is our Christian duty toward our brothers and sisters, and an essential part of Christian love.

Gal. 6:1-2 Brethren, if a man is overtaken in any trespass, you who are spiritual restore such a one in a spirit of gentleness, considering yourself lest you also be tempted.

² *Bear one another's burdens, and so fulfill the law of Christ.*

I. Thoughts on Pastoral Discipline

(The practical use of the office of the keys)

"The true basis for Christian church discipline is the observance of the various degrees of brotherly remonstrance as prescribes by Christ Himself, Matt. 18, 15-17. Christ's established order should be carefully observe and adhered to, not only by every individual Christian, the congregation as such, but also by the pastor." Fritz, pp. 234

It is the preacher's duty to administer the means of grace to his congregation not only as a teacher but also as a watchman, bishop, shepherd, leader, etc. of the congregation; to see to it that God's Word is followed there in every way and that the Christian discipline commanded in God's Word is practiced (Matt. 18:15-17; 7:6; Rev. 2:2, 14-15, 20; 1 Tim. 1:20; 3:5; 5:20; 1 Cor. 5:1-5, 9-13; 2 Cor. 2:6-11; 2 Thess. 3:14-15).

Walther, Pastoral Theology, p. 234

Walther

The necessary basis of true Christian church discipline is that the order of brotherly admonition prescribed by Christ in Matt. 18:15-17 be followed in every way, not only by the individual members of the congregation and by the congregation as a whole, but also by the preacher himself. Walther, Pastoral Theology, p. 238

A Synopsis of Three Theologians

CFW Walther, Pastoral Theology, trans. John M Dirckamer, from 5th ed. 1906, (New Haven, MO: Lutheran News, Inc., 1995), p. 241-243.

John H.C. Fritz, Pastoral Theology: A Handbook of Scriptural Principles, 2nd ed. 1945, (Ft. Wayne, IN: Concordia Theological Seminary Press, 1984), p. 237-238.

Johann Gerhard, Theological Commonplaces: XXVI/2 On the Ministry: Part Two, trans. Richard Dinda, (St. Louis: Concordia Publishing House, 2012), p. 132-134.

Both Walther and Fritz quote Hartmann *Pastoral. Ev.* Pp. 853-862

Bold Fritz <i>Italic Walther</i> Gerhard - Ariel Font
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CONSIDERING PRIVATE SINS

1F (IW) When speaking to a person who has sinned, we should always keep in mind the ultimate purpose of doing so – the spiritual welfare of our neighbor and the glory of God. A sinning person should never be exposed to the ridicule and scorn of the ungodly. It should always be evident that the admonishing brother is not prompted by malice, hatred, and vainglory.

W The preacher must not accept complaints about the private sins of others which are presented to him if these sins have not already been fruitlessly admonished privately [literally: under four eyes, that is, between two people] and then also before witnesses. Rather he should reproach the complainant for revealing a sin which is still hidden and has not been rebuked and so transgressing the divine order and encourage him with all earnestness to observe the divine order same. What Luther says in the above quotation holds true in an even greater degree for a pastor. Only those sins belong before the pastor, as a public person, which he himself has witnessed or which are in the third stage of fraternal admonition. It is shameful for a preacher to lead an open ear to gossip. p. 239

1G In private sins, the beginning must be made to with a private admonition before progressing to public censure. Matt. 18:15-17. . . . note that the Greek phrase εἰς σέ can be translated “before you, in your presence: or “to your knowledge.” . . .

2F Hidden sins should not be made public unless the third degree of remonstrance demands it. Anyone who reveals a hidden sin himself becomes an offender and needs to be taken to task. Nor is it necessary that every public sin be at once publicly dealt with.

5W Hidden sins of those which are known only to a few are to be corrected not publicly but between you and the erring one alone.

6W Therefore those who bring the hidden sins of their brothers before the congregation, without observing the steps prescribed by Christ for such fraternal dealings, are not to be heard but are rather to be rebuked and recalled to the laws of love.

7W Even public sins, known to all, are not to be rebuked publicly right away, the first time.

3F One should be sure of the facts in the case before proceeding to take a brother to task.

2W Every admonition must be based on certain knowledge of a sin that has been committed.

4F Due attention should be given to time and place of admonition Prov. 25:11, 1Sam. 25:26,27.

12W In admonishing the neighbor, the time and place are to be taken into consideration (Prov. 25:11; 1 Sam. 25:36-37)

SELF REFLECTION/CONFESSION

5F One should always remember one's own faults and shortcomings and not put on the airs of a perfect saint. Deal with your erring brother as a poor fellow-sinner.

3W The one doing the admonishing must in his admonition also keep an eye on general weakness and on his weakness and so also admonish himself.

6F (4W) One who would correct the faults of others ought not be guilty of the same or similar faults. How could one expect to make a good impression upon an erring brother if he fails to correct his own greater faults while at the same time he is denouncing the comparatively minor faults of a fellow-sinner? Luke 6:41-42.

FINDING THE APPROPRIATE TONE

7F One should never be too timid nor too severe in dealing with an offender. The purpose of bringing an offender to a knowledge of his sins and to true repentance should be kept in mind.

8W The reproach made to the neighbor should be neither too cold and mild nor too hard and earnest but should be weighed and tempered so that the brother is led, by means of it,

through recognizing his sins and considering God's wrath, with a contrite heart, to true repentance.

9W So a middle road should be taken in admonition so that one mixes a mildness of spirit with the bitterness of the reproach.

2G In this private admonition due prudence must be used. For it is enough to gently admonish one who has sinned because of ignorance or weakness and to encourage him to be careful about slipping in the future. But the person who has sinned out of wickedness must be faced with a more severe rebuke. Ambrose, on Luke, bk. 8: "A friendly reproof is more beneficial than a stormy accusation. The former elicits shame; the latter arouses indignation." In this administration of church discipline, one must not indulge his personal emotions (1 Tim. 5:21), but rather must direct all things to the single goal of the conversion and salvation of the fallen.

8F Various conditions in reference to an offender should be given careful consideration: his degree of intelligence, his knowledge of Scripture, his personal make-up, his physical condition, his experience in life, his environment, etc. Not all persons can be dealt with in the same manner.

10W The one doing the admonishing will not reprimand the neighbor in a fruitful way if he does not consider the nature and the condition of the one he wants to reprimand.

9F 11W A reprimand should be given in accordance with the sin that has been committed. For less serious offense a sinner should not be reprimanded as though he had committed one of the greatest and most serious crimes.

10F Whenever an offender is sorry for his sin or has, without having been rebuked, made amends (or if by rebuking him others who deserve more consideration would thereby be rebuked), no reprimand should be given at all or only in a very mild way.

15W If the neighbor repents of his error or crime; or if he can be corrected right away without any reproach; or, finally, if others who should be taken to greater consideration would be rebuked through [rebuking] him, then he is to be reproached either not at all or only in a very mild way.

5G The gentleness of mildness should always temper the severity of discipline and correction. . . .

[Gregory], Moral., bk. 20, ch. 6:

Discipline and mercy lack much if one is applied without the other. As regards their subject, rulers must both consult just mercy and serve pious discipline.

Thus it is that wine and oil are applied to the wounds of the half-dead man whom the Samaritan took to the inn, so that through the wine wounds might be cleansed and through the oil, soothed. In the same way, each person who is responsible for healing wounds should apply the bite of restraint in the wine and

the soothing quality of piety in the oil. Through wine, rotting wounds are cleansed; through oil, they are soothed for healing. Therefore leniency must be mixed with severity, and both must be tempered so that the subjects might not be chafed with too much harshness or let off with too much gentleness. . .

16W If it is manifest beyond doubt that all rebuking is in vain and, as it is said, one is preaching to deaf ears, then one can be completely excused from rebuking and admonishing.

REVEALING A CRIME

13W If the crime which the neighbor has committed serves to harm either the church or the state, or if danger also lies in delay; and also if one who knows of the crime and does not reveal it is considered to be implicated also in the crime; or if there is, finally, little hope if hindering it; then there should by no means be an insistence on private admonition; rather, either completely omitting it or applying it according to circumstances, the crime is to be made known publicly and report at the proper place.

14W If the crime to be committed is greater and more severe than the loss of the good reputation of the one who intends to carry out the wickedness, then the same is to be revealed without further ado, especially to those who can avert it through their authority and power (Acts 23:13-14).

PUBLIC SIN

3G Those who sin publicly and provide a public scandal because of their fall must be corrected publicly. 1 Tim. 5:20 . . . Gal. 2:14 . . .

** Therefore, in the matter of rebuking sins, not one and the same manner ought [always] to be used. Some [sins] must be depicted openly in living color so that the exact description will instruct everyone not to imitate them, even while others must be covered beneath a veil. Some [must be rebuked] more gently; others, more sharply. . .

4G In a public admonition, prudence must be used so that the medicine does not exceed the proper measure. Augustine (Letter 64 *ad Aurelium*) urges him “to use severity toward the sins of a few, but in the case of sins that have swept over the entire multitude and have gone off to become nearly customs,” he writes as follows: “These are my thoughts: such things cannot be removed harshly, roughly, nor imperiously, but by teaching rather than by commanding, by warning rather than by threatening. A man must correct what he can mercifully, but what he cannot, he should bear patiently and bemoan and weep over it with love.”

CALLING WITNESSES

11F Witnesses who are called in should be such as are acceptable to the offender, not such as are quarrelsome, tattlers, offenders themselves or otherwise incompetent, but rather good friends, in whom the offender has confidence and before whom he will not be ashamed to admit his wrong-doing.

17W The witnesses who are needed for the second stage of admonition must be well suited to winning the brother and at least not be hated by the one who is to be rebuked. For if one takes for it people who are contentious or who are otherwise hated by the one to be rebuked, or who do not keep confidences or whom he cannot tolerate, one will accomplish nothing. Rather the one rebuked will want to heal sin with sin, either out of shame or out of hatred, and will remain stiff-necked.

PATIENCE

12F The various degrees of brotherly remonstrance should, if necessary, be repeated. Christ, in Matt. 18,15-17, tells us how we should proceed, not how often the offender should be admonished. . .

18W All steps of admonition are to be repeated several times if necessity requires, and the one to be converted should be dealt with until he is corrected or until his lasting stubbornness [literally: stiff-neckedness] becomes manifest. For in Matt. 18 Christ shows the order and steps of admonition, not how often they should happen. That each one of them is to be applied several time is already seen from vs. 22 of the same chapter, where Christ reaches that one must forgive the sinning brother seventy-times-seven time.

EXCOMMUNICATION

6G One should not resort to excommunication, especially greater excommunication, unless all other means have first been tried on the sinner without success. For this is the church's highest and last and most terrifying judgment.

7G Neither greater nor lesser excommunication should be employed by the minister of the church apart from a judgment of an ecclesiastical senate or consistory, because the power to excommunicate is not the possession of any one bishop, but rather is the possession of the presbytery, which represents the entire church. Matt. 18:17: "tell it to the church; if he does not listen to the church: (that is, to the presbytery and the assembly of elders), "let him be to you as a Gentile and a tax collector," separated from the fellowship of the church. In no case should greater excommunication occur without the knowledge and approval of the entire church. . . .

W In the practice of church discipline, the preacher should primarily remember that he does not have the power in any case to excommunicate any person alone and without the preceding trial by and knowledge of the congregation. Valid here is the axiom: whatever concerns all, especially in a matter of salvation, ought to be taken care of by all. It is against all reason and righteousness for one person to decide the relationship of one member to the whole and of the whole to the one member, especially if it is a matter of fraternal fellowship in the faith. So in God's Word not only the preacher but rather the whole congregation is rebuked for omitting church discipline and is told: "Put away from among yourselves that wicked person" (1 Cor. 5:1-2, 13).

Pastoral Theology, pg. 239-240.

THE LAW OF LOVE

8G Finally, the minister must take heed in his use of the Keys, lest he loose what must be bound and bind what must be loosed, because God, as Jerome says (on Matthew 16), "does not seek the sentence of the priests but the life of the guilty, since nothing happens by the key of power apart from the key of knowledge and discretion."

"The highest law, however, is under all circumstances the law of Christian charity (love). If Christian charity therefore demands that a public offender be spoken to privately, it would be unjust at once to proceed against him publicly; for the purpose of church discipline is to bring a sinner to a knowledge of his sins and to true repentance. By bringing the case at once to the attention of the congregation (although according to the letter of Matt. 18 we would have the right to do so), we might keep the sinner from confessing his guilt, either because he feels ashamed to do so or for other reasons. Of course, even if a public offender has been dealt with privately and brought to repentance, the congregation which has been offended must be subsequently informed of the happy outcome, so that the offense will be removed."

Fritz, pg. 237

** A Dominican monk, Gregory, was a court churchman of Duke Frederick of Saxony, whom Luther and others greatly approved. When Gergory once wanted to censure the sins of the princes before the congregations but did not dare do this openly, he spread it among the people by a trick, using this comparison: "A preacher is not unlike the man who skins a rabbit. For even though he draws the pelt from the entire body easily, yet he experiences some difficulty when he comes to the head. Thus when the preacher censures the vices of the people, it is not there that he fears the difficulty, but when he comes to the head" (here pointing his finger at the prince standing nearby) "then skin yourself apart!" The prince gave the monk a new cap (Wolff, Cent. 16, pg. 140).

Gerhard pg. 1

Luther

Elsewhere I have said that there are two kinds of sin: one kind is confessed, and this no one should leave unforgiven; the other kind is defended, and this no one can forgive, for it refuses either to be counted as sin or to accept forgiveness. When Christ talks about forgiveness or the keys in Matthew 18:18, therefore, He puts the two side by side, loosing and binding, to make this clear. It is impossible to loose a sin which a person refuses to acknowledge as a sin that needs to be forgiven; such a sin should be bound to the abyss of hell. On the other hand, those sins that are confessed should be loosed and elevated to heaven. This provision in the Office of the Keys also applies to the relation of every Christian with his neighbor. He should be ready to forgive everyone that injures him. And yet, if someone refuses to acknowledge the sin and to stop it, but persists in it, you cannot forgive him—not on your account but on his, because he refuses to accept the forgiveness. But as soon as he owns up to being guilty and requests forgiveness, everything must be granted, and the absolution must follow right away. Since he is punishing himself and desisting from his sin, so that there is no longer any sin about him, I should let the matter of his sin drop. But if he holds on to it and refuses to drop it, I cannot take it from him but must let him remain stuck in it; for he himself has changed a forgivable sin into an unforgivable one. In other words, if he refuses to confess, his conscience must be burdened as heavily as possible, without any sign of grace; for he stubbornly insists upon being the devil's own. On the other hand, if he confesses his sin and begs your pardon but you refuse to forgive him, you have loaded the sin upon yourself, and it will condemn you as well.

LW 21:152

Discipline “gimmeys”

1. Face to face – not over the phone (unless the refuse to meet face to face), not by letter (unless they refuse to answer the phone).
2. Keep records: date, time, discussion

Church Discipline between Congregations:

ON A PASTOR ABSOLVING ANOTHER PASTOR'S SHEEP:

Gerhard, pp. 136-137.

The question arises: (III) Can someone confess to a pastor other than his own ordinary pastor and ask him for absolution? This is denied:

(1) On the basis of Scripture. 1 Pet. 4:15 “Let no one suffer as an intruder on someone else's office”. Cg. Acts 20:28; 1 Pet. 5:2; Heb. 10:25; 13:17.

(2) On the basis of the sacred canons. In the decretals of Gregory . . . it is established that on Sundays or festival days, before the priests celebrate the Mass, they should ask the people if there is a member of another parish in the church who wants to hear the Mass there because he holds his own priest in contempt. If they find such a one, they should immediately remove him from the church.

(3) On the basis of a decree of the Council of Carthage, which decreed that no bishop should be in charge of another's people nor should any bishop supersede his colleague in that latter's diocese.

(4) By the authority of Cyprian (bk. 1, Letter 3 . . .). A portion of the flock is ascribed to each pastor, which portion each pastor is to rule and guide. He shall have to give an account of his actions to the Lord. . . .

(5) On the basis of a parallel situation. No one is allowed to preach in another's parish if that pastor is unwilling, nor may he baptize or marry anyone there. Therefore he is not allowed to absolve or give the Lord's Supper to anyone from another parish, even if [the parishioner] has a house or an estate there yet remains a member of another's parish.

(6) Because of the detrimental results. If a person wants to go off to another pastor, the divinely established order is upset and the ministry of the orthodox pastor is despised.

ON RESPECTING ANOTHER CONGREGATION'S MINISTRY

C.F.W. Walther, "The Voice of Our Church on the Question of Church and Ministry", from Walther on the Church, trans. John Drickamer, (St. Louis, MO: Concordia Publishing House, 1981), p.151.

Thesis 54

Every congregation should agree with its neighboring congregation on their mutual geographical boundaries . . . and no congregation should receive [into membership] those who live in the area of other congregations.

Thesis 55 A congregation should ask of those who come to it from other orthodox churches a testimony written by their former congregation which it should acknowledge; again it should give to those who transfer to other congregations a similar testimony.

Thesis 56

A congregation should not receive as brethren such as have been rightly excommunicated by orthodox congregations. (which would include both major and minor bann)

Other considerations:

- * *Neighboring pastors are expected to support the rightful discipline of each other*
- * *Members of one congregation should not be harbored or coddled by neighboring pastors/congregations*
- * *Should members of a neighboring congregation go to a sister congregation, that pastor should inform and discuss the matter with the home pastor of the person in question.*
- * *Membership should not be transferred while a matter of discipline is pending.*
- * *If the original pastor has erred, then the second pastor should directly address him and resolve the matter there so that the home pastor and his member can be reconciled.*

Use of the Major Ban

Walther, Church and Ministry, Thesis IX

Reverence and unconditional obedience is due to the ministry of preaching when the preacher is ministering the Word of God. However, the preacher may not dominate over the Church; he has, accordingly, no right to make new laws, to arrange indifferent matters and ceremonies arbitrarily, and to impose and execute excommunication alone, without a previous verdict of the entire congregation.

1938 W.J.T. Dau translation

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 authority to introduce new law or arbitrarily to establish adiaphora or ceremonies. He has not right to inflict and carry out excommunication without his having first informed the whole congregation.

1962 Mueller translation

Mueller quoting Flacius:

In the ancient *Cynorsura* of the church of Württemberg we read: 'Ministers may counsel against, forbid, or by way of suggestion suspend from Holy Communion, but no minister shall administer public excommunication by his own authority.'

C & M p. 325

Consider also:

Titus 3:10-11 - Reject a divisive man

1 Corinthians 5 "deliver such a one to Satan" "put away from yourselves the evil person"

Vs. 11 speaks of such discipline exercised on that person who is, not merely who does. It is not sins of weakness then at issue, but persistent sins.

"do not keep company" – συναναμίγνυσθαι - συναναμείγνυμι - RT. μείγνυμι = to mix or mingle, to blend: *BAG* whose blood Pilate mingled with their sacrifices *Mt. 27:34*. *HM* vinegar and wine mixed together. Excommunication was not just the one time act of a congregation to remove a person from membership in the Church, but an ongoing change in relationship between the members of the church and that individual.

Cf. 2 Thess. 3:6-7, 14-15

[Walther quoting Brochmand] Although the administration of the binding keys belongs especially to the duly called ministers of the divine Word, God has prevented pastors in so difficult a case from undertaking anything without the counsel of the elder and the whole congregation. . . . That this should be done so today is demanded by the necessity of the matter itself. For since major excommunication means exclusion of a person from the house of God and the voluntary separation of the whole congregation from such a person, it is obvious that for the desired execution of so important a matter the agreement of the whole congregation is necessary.

. . . for there is a difference between the two acts of announcing to an impenitent sinner that he would have neither part nor portion in the kingdom of God and excluding an impenitent

sinner altogether from a congregation so that access to the sanctuary shall be closed to him and no pious church member may henceforth have any intimate fellowship with him. The former every minister of the Word may do according to Christ's command (Matt. 18:18), but the latter belongs to the congregation, as Christ declares in Matt. 18:17 and Paul in 1 Cor 5:1ff.

Church and Ministry, pg 330-331.

- * Excommunication is to happen via the unanimous vote of the congregation.
- * What to do when a unanimous vote isn't reached?

The only one who can be excommunicated is one who 1. Is still alive and capable of giving an account; 2. Calls himself or wants to be called a brother (sister) (1 Cor. 5:11); 3. Is a communicant member of the congregation (1 Cor. 5:13); 4. Has committed an open, offensive sin against God's commandment (1 Cor. 5:11) or holds a fundamental error and is clearly committed to it (Titus 3:10-11; Rom. 16:17; 2 John 9-11); 5. In spite of all admonition remains hardened in his sin or error and so has become manifest as an incorrigible non-Christian (Matt. 18:17; Titus 3:10-11); and finally 6. Whom the congregation has unanimously declared worthy of excommunication (1 Cor. 5:1-5; Matt. 19:17). Therefore excommunication cannot be carried out in the cases of: 1. People who have already died or are not capable of giving an account (the insane, the feeble-minded, those physically possessed, etc.) or children (Eph. 6:4; Deut. 21:18-21); 2. Who are not members of the congregation (1 Cor. 5:13); 3. Who do not want to be brothers, who have left the congregation themselves and so have excommunicated themselves (1 John 2:19); 4. Whose sin or error is not open or is not yet so manifest that it can be clearly proven to them and to the congregation (John 13:21ff.; Titus 3:10-11); 5. Whose sin or error pertains only to the human frailty and weakness even of a Christian (Gal. 6:2; James 3:2); 6. Whose sin is not a transgression of divine Law and whose error does not overthrow the foundation of the faith (Rom. 14:1ff.). 7. Who have not yet been fruitlessly admonished according to the divine order and so have not yet been revealed as stiff-necked and incorrigible errorists or sinners (Matt. 18:15-17; 2 Thess. 3:14-15; see Titus 3:10-11); 8. about whom the congregation cannot agree that they deserve to be excommunicated (1 Cor. 5:13); and finally 9. Whole congregation (Gal. 1:2; see 5:4; 2 Sam. 15:11).

Walter, Pastoral Theology, p. 247

On pt. 8

If it is clear from God's Word to the great majority of the congregation that a sinner is to be excommunicated, and if one protests against it but cannot give valid reasons for his refusal ([but refuses] from obviously despising God's Word and command, obvious favoritism for the sinner, or pure stubbornness), the protestor is to be put under discipline before the excommunication is carried out. The excommunication is not to be carried out until unanimity has been achieved by settling the objection (whether the protestor withdraws his protest or shows himself stiff-necked and must himself be excluded as a manifest non-Christian).

Walter, Pastoral Theology, p. 248

Finally it may be noted that no congregational business calls for more exact records than that which deals with church discipline. The congregation should always be able to prove from its

minutes the correctness of its procedure in every excommunication. Without this proof, other congregations are not able and obligated to respect the excommunication in all cases.

Walther, Pastoral Theology, p. 251

Warning about Discipline

WHEN NOT TO EXCOMMUNICATE (MAJOR BAN)

Walther quoting Ludwig Hartmann [Pastoral Theology] p 234

“Those who cannot be separated without an uproar are not to be excommunicated. . . . [Hartmann gives several quotations from Augustine.] So also, if there is not a suitable board of elders or the people do not agree to a just excommunication, the formal trial can be completely omitted. But in the meantime a faithful minister of the church must work for this purpose and together with other devout believers see that public offense is rebuked and that that which is holy is not cast to the dogs and sows” (Hartmann Pastoral. Ev., pg. 474)

As late as 1533, Luther, Jonas, Bugenhagen, and Melanchthon stated that, because of the circumstances at that time, they could exercise church discipline only through confessional announcements and suspension from the holy Supper. . . . “Yet at this time we have set up no other excommunication [Bann] than that those who live in manifest vices and will not give them up are not admitted to the Sacrament of the body and blood of Christ. And that can be preserved in this way that among us the Sacrament is administered to no one unless he has first been heard by a pastor or deacon.” p. 235

“Although Luther did not see himself in a position to introduce complete church discipline, also with respect to life, he still wished from it from his heart and expressed that also in uncounted passages. So it would be a wicked error to suppose that one should not be intent on reinstating church discipline because the Reformation did not put it into full swing.” p. 237

“The preacher should primarily remember that he does not have the power in any case to excommunicate any person alone and without the preceding trial by and knowledge of the congregation. p. 240

So while cautioning against destroying a congregation by using the major ban when they are not yet educated or prepared to take such action themselves, the necessity for the pastor to exercise the minor ban (removal from the Lord’s Supper) for those who are unrepentant is held up.

Denying The Sacrament to the Unrepentant (aka the Minor Ban (which is truly the major ban))

WALTHER

As late as 1533, Luther, Jonas, Bugenhagen, and Melanchthon stated that, because of the circumstances at that time, they could exercise church discipline only through confession

announcements and suspension from the holy Supper. They write about the church order to be set up in Ansbach and Nuremberg: “yet at this time we have set up no other excommunication [Bann] than that those who live in manifest vices and will not give them up are not admitted to the Sacrament of the body and blood of Christ. And that can be preserved in this way that among us the Sacrament is administered to no one unless he has first been heard by a pastor or deacon.

. . . [quoting a letter Luther wrote to a church synod] . . . I would like to recommend that that one begin gradually, as we are doing here, and that those who are recognized as worthy of excommunication first be turned away from Communion (what is called the minor excommunication is also the true excommunication); and then that they not be permitted to be sponsors at the Baptism of children.” p. 235

Large Catechism

⁵⁸ For this reason we must make a distinction among men. Those who are shameless and unruly must be told to stay away, for they are not fit to receive the forgiveness of sins since they do not desire it and do not want to be good. ⁵⁹ The others, who are not so callous and dissolute but would like to be good, should not absent themselves, even though in other respects they are weak and frail. As St. Hilary has said, “Unless a man has committed such a sin that he has forfeited the name of Christian and has to be expelled from the congregation, he should not exclude himself from the sacrament,” lest he deprive himself of life.²

Tappert p. 453

Confessional Considerations:

AC V THE OFFICE OF THE MINISTRY

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 XIV ORDER IN THE CHURCH

It is taught among us that nobody should publicly teach or preach or administer the sacraments in the church without a regular call.

AC XXV CONFESSION

Confession has not been abolished by the preachers on our side. The custom has been retained among us of not administering the sacrament to those who have not previously been examined and absolved.

AUGSBURG CONFESSION XXVIII. THE POWER OF BISHOPS

²¹ According to divine right, therefore, it is the office of the bishop to preach the Gospel, forgive sins, judge doctrine and condemn doctrine that is contrary to the Gospel, and exclude from the

Christian community the ungodly whose wicked conduct is manifest. All this is to be done not by human power but by God's Word alone.²² On this account parish ministers and churches are bound to be obedient to the bishops according to the saying of Christ in Luke 10:16, "He who hears you hears me."

Tappert pg. 83

Apology XI CONFESSION

"... Excommunication is also pronounced against the openly wicked [those who live in manifest vices, fornication, adultery, etc.] and the despisers of the Sacraments. . ."

Triglotta, para. 61. Pg. 249

Apology XII PENITENCE

We say that good fruits, good works in every kind of life, ought to follow repentance, i.e., conversion or regeneration [the renewal of the Holy Ghost in the heart]. Neither can there be true conversion or true contrition where mortifications of the flesh and good fruits do not follow [if we do not externally render good works and Christian patience]. True terrors, true griefs of mind, do not allow the body to indulge in sensual pleasures, and true faith is not ungrateful to God, neither does it despise God's commandments. 35 In a word, there is no inner repentance unless it also produces outwardly mortifications of the flesh. We say also that this is the meaning of John when he says, Matt. 3:8: Bring forth, therefore, fruits meet for repentance. Likewise of Paul when he says, Rom. 6:19: Yield your members servants to righteousness; just as he likewise says elsewhere, Rom. 12:1: Present your bodies a living sacrifice, etc. And when Christ says, Matt. 4:17: Repent, He certainly speaks of the entire repentance, of the entire newness of life and its fruits; He does not speak of those hypocritical satisfactions which, the scholastics imagine, avail for compensating the punishment of purgatory or other punishments when they are made by those who are in mortal sin.

Triglotta 1,VI, 34-35 pg. 291

Apology XXVIII OF ECCLESIASTICAL POWER

¹³ We like the old division of power into the power of the order and the power of jurisdiction. Therefore a bishop has the power of the order, namely, the ministry of Word and sacraments. He also has 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. ¹⁴ A bishop does not have the power of a tyrant to act without a definite law, nor that of a king to act above the law. But he has a definite command, a definite Word of God, which he ought to teach and according to which he ought to exercise his jurisdiction. Therefore it does not follow that since they have a certain jurisdiction bishops may institute new acts of worship, for worship does not belong to their jurisdiction. They have the Word, they have the command about when they should exercise their jurisdiction, namely, when anyone does something contrary to that Word which they have received from Christ.

Tappert, pg. 282

Treatise on the Power and Primacy of the Pope,

⁶⁰ The Gospel requires of those who preside over the churches that they preach the Gospel, remit sins, administer the sacraments, and, in addition, exercise jurisdiction, that is, excommunicate those who are guilty of notorious crimes and absolve those who repent. ⁶¹ By the confession of

all, even our adversaries, it is evident that this power belongs by divine right to all who preside over the churches, whether they are called pastors, presbyters, or bishops.

Tappert, pg. 330

Smalcald Articles Part III, Article IX. OF EXCOMMUNICATION.

The greater excommunication, as the Pope calls it, we regard only as a civil penalty, and it does not concern us ministers of the Church. But the lesser, that is, the true Christian excommunication, consists in this, that manifest and obstinate sinners are not admitted to the Sacrament and other communion of the Church until they amend their lives and avoid sin. And ministers ought not to mingle secular punishments with this ecclesiastical punishment, or excommunication.

Triglotta, pg. 497

Preface to the Small Catechism (para 11)

If any refuse to receive your instructions, tell them that they deny Christ and are not Christians. They should not be admitted to the sacrament, be accepted as sponsors in Baptism, or be allowed to participate in any Christian privileges. . . .

Restoration of the Excommunicated

⁶ This punishment which *was inflicted* by the majority *is* sufficient for such a man, ⁷ so that, on the contrary, you *ought* rather to forgive and comfort *him*, lest perhaps such a one be swallowed up with too much sorrow. ⁸ Therefore I urge you to reaffirm *your* love to him. ⁹ For to this end I also wrote, that I might put you to the test, whether you are obedient in all things. ¹⁰ Now whom you forgive anything, I also *forgive*. For if indeed I have forgiven anything, I have forgiven that one for your sakes in the presence of Christ, ¹¹ lest Satan should take advantage of us; for we are not ignorant of his devices. 2 Cor 2:6-11 (NKJV)

This reconciliation with the whole congregation or public church repentance is necessary, not because a person must pay for his sins in the church as in the state by suffering a corresponding punishment, but partly to restore the trusting relationship to his brothers, which has been disturbed by the fall into sin, and partly to do away as much as possible with the offense which has been given publicly. If those members of the congregation who have manifestly sinned severely and have privately confessed their sin to God alone, were to be absolved and communed by the preacher and treated like other upright members, that could have only a destructive effect. Then the congregation would exist as a society of people in which the members can live in sin and shame without repentance and yet remain members.

As a public sinner is to be rebuked publicly according to God's Word (1 Tim. 5:20), he must also make his repentance publicly known and publicly say, "I repent,{ as a necessary sign if he wants to be considered a repentant brother and have the forgiveness of the whole congregation (Luke 17:3-4)

Walther, Pastoral Theology, pp. 244-245.

The form of an apology is determined by the severity of the offense, the nature of the one who has fallen, and the congregation's level of knowledge. Depending on circumstances, the

apology can be made either personally in front of the altar by the one who has fallen himself, or through the preacher from the pulpit, or in a congregational assembly [voters' assembly], or before a committee (in the case of women), orally or in writing, etc.

Walther, Pastoral Theology, p. 246.

Summary

- * Church discipline involves confrontation with persistent sin and unrepentance, not merely with a particular sin.
- * The size or shock value of the sin is not at issue in matters of church discipline.
- * The goal of all Church discipline is repentance. Indeed, once begun discipline can only be resolved through repentance.
- * Church discipline will follow the given Biblical procedure and must always begin with conversation with the offender by the one who knows firsthand about the offense (fraternal admonition). That is, no discipline should ever be practiced based on hearsay.
- * Church discipline is the responsibility of the congregation, its individual members, and the pastor.
- * Church discipline can only be exercised with members of one's own parish.
- * To exercise discipline is not the choice of the pastor. It is an essential part of his call.