

# THE THREE WALLS PREVENTING REFORM IN THE LCMS

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It is often said that Dr. Luther did not "leave" the Roman Church, but instead sought to reform it from within. This often cited *cliche* is not as accurate as the modern conservative Lutheran churchman would like to think. While it is true that the Lutheran Reformers made requests for an ecumenical council in the hope they would be given a fair hearing, it appears that Dr. Luther came quickly to the conclusion that a reform from "within" was highly unlikely. And indeed Luther was excommunicated. And yet, Luther thought the energies of the Reformers needed to be spent elsewhere. If reform was going to come it would not come from the "top down" or from "within the system," but would have to occur in one parish, one family, and one territory at a time. Hence his multifaceted work on the Bible, the Catechisms, liturgy, hymns, sacramental practice, societal concerns, education, and the like. It also seems clear that Luther believed this reform would need to be carried out by ordinary people in the proper execution of their vocations.

In the first part of his letter to *The Christian Nobility of the German Nation Concerning the Reform of the Christian Estate* of 1520, Luther evaluated the condition of the Romanist system and explained why the Romanist Church would never be reformed.

The Romanists have very cleverly built three walls around themselves. Hitherto they have protected themselves by these walls in such a way that no one has been able to reform them. As a result the whole of Christendom has fallen abominably.

In the first place, when pressed by the temporal power they have made decrees and declared that the temporal power had no jurisdiction over them, but that on the contrary the spiritual power is above the temporal. In the second place, when the attempt is made to reprove them with Scriptures, they raise the objection that only the pope may interpret the Scriptures. In the third place, if threatened with a council, their story is that no one may summon a council but the pope. (*Luther's Works – American Edition, Vol. 44, p. 126*)

In the introduction to this letter, the editors of *Luther's Works (American Edition) Volume 44* summarized Luther's basic argument.

In the three sections of this treatise Luther laid the ax to the whole complex of ideas upon which the social, political, legal, and religious thought of the Western world had been developing for nearly a thousand years. The first section exposes and refutes theologically the three walls behind which the papacy was entrenched. By demolishing

the first wall, the concept of spiritual and secular classes, Luther removed [sic! rather "corrected"] the medieval distinction between clergy and laity and conferred upon the state, the rulers of which (as Luther saw it) were Christians and therefore priests, the right and duty to curb evil no matter where it appeared. In rapid succession he demolishes the remaining two walls: the papal claim that only the pope can interpret Scripture, and that because only the pope could summon a council the decisions of a council were invalid without papal sanction. Luther declares that there is no biblical ground for the papal claim of the sole right to interpret Scripture [!] and he asserts the necessity for Rome to listen to those who can. The third wall collapses under the barrage of Luther's attacks drawn from Scripture, church history, and the assertion that "when necessity demands it, and the pope is an offense to Christendom, the first man who is able should, as a true member of the whole body, do what he can to bring about a truly free council." (*LW-AE Vol. 44*, pp.120-121).

For those acquainted with the present situation in the LCMS, the parallels should be obvious. But for the sake of those who are just now realizing how deeply entrenched the LCMS has become and how steadfast the synod is in refusal to be reformed to a truly confessional Lutheran position, the author will continue and describe our own "Three Walls."

### **The First Wall**

The first wall, Luther asserted, was the claim that Romanist Church and its officers were not subject to the powers of the state. Therefore, remedies for conflicts were to be found exclusively within the ecclesiastical courts, which by no coincidence, were controlled by ecclesiastical officials; who usually had a vested interest in finding in their own favor. Luther: "In the first place, when pressed by the temporal power they have made decrees and declared that the temporal power had no jurisdiction over them, but that on the contrary the spiritual power is above the temporal." (*Ibid*, p. 126)

The LCMS has also constructed such a wall. It set this wall in place at the Pittsburgh Convention in 1992 when the synod in convention replaced a true adjudication process, a system based on truth, justice, evidence, due process, and sound reason, with a system that possesses none of these qualities.

Like the Romanist Church in Luther's day, the LCMS has created a political system that makes it impossible to establish the truth and do justice within the ecclesiastical system. It is a system designed to protect those in power in the "corporate synod" infrastructure (be they liberal or conservative!) and intimidate anyone one who would see fit to seek protection elsewhere. This thwarting of justice is accomplished through a multitude of contradictory rules, double standards, shifting CCM rulings, hypocritical and pietistic officials and reconcilers, and bad doctrine. The politicization of selecting and electioneering to select certain people (be they liberals or conservatives) to fill the CCM, CTCR, and Dispute Resolution Panels are prominent examples.

For the purposes of this article, the author will only mention a few of these factors here. First there is the Dispute Resolution Process itself, which is laid out in Chapter 8, The Dispute Resolution Process, of the LCMS bylaws. Absent from these bylaws is the language of "truth," "justice," and any hint of fair due process. The only points at which the bylaws and their intent is clear is when they say things like: the synod's Dispute Resolution Process shall be "the exclusive remedy" for all controversies and conflicts between the members of the synod.

This language, like the claims of the Romanist Church in Luther's day, is intended to prevent, discourage, and intimidate the members from seeking remedies in a court system that cannot be controlled or manipulated by the synod. While there are exceptions to this provision, they are narrow and narrowly understood.

The synod's Dispute Resolution Process is at its core a form of binding arbitration, wherein the synod is given all power and authority to render any judgment it sees fit and the accused is stripped of all his rights of redress. In addition to the claims of the bylaws themselves, those forced into the DRP are usually presented with legal documents in which the accused (cleverly called the "complainant" in LCMS speak) is "asked" to "voluntarily" give up his right to take the matter elsewhere. He is expected from start to finish to bind himself unconditionally to the ruling of the synod, which of course has a vested interest in finding in favor of the synod's officers. Failure to cooperate with this "request" often sets the defendant in a negative light even before the hearings begin.

In addition to the written documents, those who find themselves in the DRP will likely be opposed by a small army of attorneys, even if he never sees the army. Each district has its own attorney on retainer, who from the outset of any controversy which could result in liability, offers advise and counsel to the district president. His function is to protect the district (an entity of "corporate synod") and to minimize its liabilities, even if the district is dead wrong or if doctrine or fairness is at stake. To this end, he might teach the district president how to steal away the "complainant's" rights and potential remedies.

But where there is one attorney there are likely several more not far behind. In addition to the attorneys for each district, the synod itself has its own attorneys for the same purpose. While preventing the accused the right to be publicly defended by competent representation, the district and synod are piloted every step of the way by a whole choir of attorneys, who sing the praises of the powerful and do their bidding for a price.

Since district presidents are corporate officers, the synod's attorneys have the same basic function as do the district's legal counsel, namely to do everything to keep the defendant from bringing to light any legitimate case, which would show that liability has arisen as a result of misconduct on the part of the synod's officers. Now multiply this problem by each sub-corporation of the LCMS (i.e. Concordia Health Plans, Concordia Publishing, its officers, schools, and a plethora of foundations) and we see the wall is a very high wall indeed.

Moving on from the legal aspects of the wall, there is yet another obstacle to establishing the truth and obtaining justice, namely an ignorance (or perhaps a willful rejection) of what the Scriptures and the Confessions teach concerning the two kingdoms and the uses of courts to protect one's family or neighbors. Instead of a system based on and filled with "reconcilers" (a church power) who understand both sound doctrine and sound jurisprudence, the system is filled with a pietistic hermeneutic that misreads the prohibition of I Corinthians 6 at the exclusion of Romans 13. When the accusers, synod, and reconcilers consult, engage, and employ attorneys, it is called good stewardship and a prudent thing to do. When the accused (Oops! "complainant") seeks the help of the same, he is treated as if he has committed the unforgivable sin. The sin of questioning the fairness of his accusers and judges.

When a matter is brought before a civil magistrate the synod and district may do everything possible to get the case dismissed, including making arguments that are contrary to Holy Scripture and the Lutheran Confessions. In a case familiar to this author, the district president and the district's lawyer argued before a judge in both written and oral argument that state courts have no jurisdiction over members of the LCMS and that members of the LCMS are not bound by civil law (so much for the two kingdoms or Romans 13!). Members of the synod, they argued, are only bound by the bylaws of the LCMS. The judge, of course, found these arguments, along with several others, wanting.

The Dispute Resolution Process has shown itself incapable of distinguishing between right and wrong, truth and error, and God and the devil. In the most recent case (the Benke case), the CCM and the Dispute Resolution Panel set aside Holy Scripture as the governing document over doctrine and practice of those authorized to engage in wrong doing (not to forget the Lutheran Confessions), and set in its place the rulings of the CCM, which itself subjugated Holy Scripture to the bylaws, the synod in convention, and the synodical president (not necessarily in that order). What ever happened to the understanding of the authority and clarity of Scripture?

The present system is binding only upon ordinary pastors and the only penalty it can impose is to remove the accused ("complainant") from the clergy roster of the synod. If the accused fails to prove his innocence or cannot show a legal technicality, he is removed since the system assumes the guilt of the accused. After all, how could a district president, a synodical official be wrong? If the accused is caught in a lie, he is removed (as he should be). If the accused breaks the bylaws or argues against the injustice of the process he runs the risk of offending the sensibilities of the panelists, district president, and the synod itself, and more charges are brought against him.

On the other side of the dispute the district president can lie (it could happen!), misrepresent the evidence, (it could happen!), break virtually every bylaw of the system (it could happen!), and even be found guilty of acting like a tyrant (it could happen!), and absolutely nothing could or would be done to discipline the offending district president. After all, what corporation in its right mind would find its own officers guilty of doing anything wrong? We forget the doctrine of original sin in these circumstances.

The Dispute Resolution Process simply doesn't apply to synodical officials in the same way. While compliance with rules and rulings is required of the ordinary pastor, compliance is completely voluntary for every other party in the system. As the recent CCM rulings have proven, the system and any potential penalty imposed by the system, doesn't apply to the synodical president or any one who is authorized to do anything that the president and all his men might authorize them to do (e.g. "ecclesiastical supervisors"). This wall is so cleverly built that two administrations (conservative and liberal) have used the system to protect the synod's wrong doing, potential liability, and to derail honest investigations. When those in the system tried to correct a wrong and protect the innocent, rulings were ignored, bylaws set aside, a person slipped into the jury pool, and lawyers paid.

In the recent cases of Dr. Kieschnick and President Benke, the system has been used to protect an erring teacher, to advance a theological political ideology, and to change forever the pecking order of the synod. Until recently it was assumed (although not really practiced) that the pecking order of authority went something like this in a multi-layered fashion: Scripture was first, the Lutheran Confessions second, the constitution of the LCMS third, the bylaws and convention were fourth, and synodical officials, including the President, were bound by all of the above. Now the Synodical President is first (and all he authorizes to act under his jurisdiction), the convention is second, the bylaws are third (when they help protect the synod), the constitution is fourth, although not very clear, and the Confessions and Holy Scripture are "wonderfully" ambiguous and flexible. Their interpretation now is relegated to the CTCR and synodical resolutions, if they are remembered after each triennium.

So here we have the first wall preventing a reforming of the LCMS not unlike the first wall Luther once faced.

## **The Second Wall**

The second wall, according to Luther, was the wall of biblical interpretation. The Romanist claimed that only the pope had the authority to interpret and apply the Scripture and that his interpretation was final. In this way, the Romanist Church removed itself from the collective and corrective use of Holy Scripture. Luther: "In the second place, when the attempt is made to reprove them with Scriptures, they raise the objection that only the pope may interpret the Scriptures."

Today there are as many popes as there are people who comment on the sacred texts. In the 1970's the LCMS fought the battle for the Bible (inspiration, inerrancy). Officially, those conservatives who supported and defended the biblical doctrine of verbal inspiration, with its corresponding doctrine of infallibility and inerrancy won the day. But like the Israelites of the Old Testament, the soldiers of the LCMS ended the battle too early. And the army was simply a temporary coalition but was not positively united. The synod did not address the deeper theological divisions. Instead the synod allowed a large number of its pastors, who had been poorly trained under the higher critical method and unduly influenced by pietism and Reformed theology, to remain in theological ignorance. These

pastors have now ascended to the halls of power and their yeast has leavened the whole loaf. We see the fruits in the push for ecumenism, open communion, contemporary worship, the denigration of the office of pastor, and in the push for the ordination of female pastors and feminist theology.

In Luther's day when an attempt was made to correct the erring with Holy Scripture, the Reformers were met with the claim that only the pope could interpret Scripture. Pastors and laymen alike had no authority to speak God's Word of correction to those in authority. In our day we are confronted by a wall of pure post-modern subjectivism, relativism, and pluralism. When we attempt to correct the erring, they object by appealing to spiritual clichés rooted in Gospel reductionism (or "evangelism reductionism") and to an infallible, but ambiguous, inerrant Holy Scripture. Under such a view, everyone has the right to interpret Scripture in whatever way makes them feel the best about their own ignorance and according to their own conscience. But when matters become political then our only appeal is to a majority vote or the CTCR.

Faced with a text whose meaning remains spiritually ambiguous and incomprehensible, thus open to as many interpretations as there are interpreters, our synodicalists have created a new way of thinking and speaking about our church's doctrine. This language has been introduced and used by liberal and conservative alike. It is called the "synod's official position." Rather than speaking of what the Scriptures teach, or what the Lutherans confess in the Book of Concord, we have a denominational, corporate notion of "official position of synod." What happened to the language of the Athanasian Creed, "the catholic faith"? Introduced and employed by conservatives like Dr. Barry, it is now applied by President Kieschnick very effectively. And to promote it we have new slogans to boot. Now we must wait for the answer from on high, the synod in convention, wherein the "official doctrine of our church will come forth, not from Holy Scripture, but from the synod in convention." To paraphrase the old Vatican news reporting: "St. Louis has spoken." So it seems that for both conservative and liberal in the LCMS, the synod, either in convention or not in convention, has the final interpretive word on Holy Scripture. So when an attempt is made to reprove them with Scripture, they raise the objection that only the synod, either in convention or not in convention, may interpret the Scriptures and we must await for the next convention to see what the synod says about what the Scripture says. So, to get a more politically correct or agreeable interpretation, get a more politically correct or partisan electorate to your particular point of view at the next convention.

This wall is even a higher wall than the first. It is also the most harmful wall of the three for it robs the Christian of clear and certain words from God. Perhaps the Gnostic secret has returned to build this wall? It will most certainly lead us down the rest of the path almost taken back in 1974.

### **The Third Wall**

The third wall in Luther's day was the wall of ecclesiastical control. Only the pope could call a council to address the issues of reform. Again Luther: "In the third place, if threatened with a council, their story is that no one may summon a council but the pope." (*Ibid*, p. 126) When the pope did call

The Council of Trent in 1560, judgments against the reformers were a prerequisite for the council to be held. It was not a free council, but very “managed.”

Any ecclesiastical bureaucracy is hostile to reform, both institutional and theological (the latter more than the former). For many it is simply frightening to bring change to the bureaucratic infrastructure. This was true in Luther’s day and it is true in our day. In the office of district and synodical president, we are confronted by not one pope, but with thirty seven. And yet they are not bishops in the fullest sense of having regular parishes of their own. They are not “pastors to pastors.” They are popes in the sense that they stand as a vanguard making sure that no resolution of significant reform makes it to the convention floor.

Even though the Council of (District) Presidents was not formerly created by a synodical convention, but rather willed itself into existence by the men who held that office. The Council of Presidents has virtually subjugated the synod and its convention unto itself. The office of district president, the Council of Presidents, and the synodical president was originally created to serve the parish pastor and congregation. Now together they rule as supreme, virtually accountable to no one, and practically untouchable.

Like the popes, cardinals, and bishops of Luther’s day, these ecclesiastical supervisors of our day control the agendas, appointments, call processes, ballots, and budgets. The custom has grown up in the ecclesiastical bureaucracy of the LCMS (observed by conservative and liberal alike) wherein district presidents not only unduly influence the affairs of their own districts, but are given chairmanships of the floor committees of the synodical convention. In this way they can modify, change, and block any resolutions call for or instituting reforms -- for example, a resolution creating a truly just adjudication process or reforming of the office of district president.

While it is true that we are presented with a synodical convention every three years, it is not true that we are presented with an opportunity to reform our synod every three years. It was no doubt the intent of our forefathers to provide the congregations and pastors with such an opportunity to reform. But it is even more clear that conservative and liberal synodicalist (both being “institutional conservatives”) have no belly for it. This presumes a basic theological unity which does not exist any longer.

These were the three walls against which the Reformers could not and did not prevail (by means of “the system”). The Roman Church has resisted to this very day a true theological and institutional reform, opting for a mere change of window dressing at best. By these three walls they defeated the Reformers, so to speak. "In this way," Luther wrote, "they have cunningly stolen our three rods from us, that they may go unpunished. They have ensconced themselves within the safe stronghold of these three walls so that they can practice all the knavery and wickedness which we see today (*Ibid*, p. 126).

In this way also our synodicalists, conservative and liberal alike, have cunningly stolen our three rods that they may go unpunished and unreformed. They have ensconced themselves with a very safe stronghold so that they can practice all the knavery and wickedness which we see today. But in the Lutheran Reformation, those Lutheran confessors (pastors and laymen) went a faithful route in their own parishes and territories and offered orthodox alternatives to what was locked behind the three walls. They put their money and lives on the line to go a more difficult route to live by grace through faith alone. For the true church is wherever the gospel is purely preached and the sacraments are administered according to Christ's institution (Augsburg Confession VII). In this way the Church is manifested in a godly Divine Service of Word and Sacrament. In church and state, in families and schools, in preaching and publications, in diaconal service, the Gospel sounded-forth, that the Word of God may not be bound but have free-course and be preached to the joy and edifying of Christ's holy people and that disciples be made of all nations by baptizing in the name of the only God, the Triune God, and in catechizing the baptized in all things that Christ has commanded us.

Originally posted on the *Reformation Today* website.