

Timothy J. Wengert

# ***Confessio Augustana* 22 – 28: A Template for Philip Melanchthon’s “Ecumenical” Theology**

In his erudite *historical commentary on the Augsburg Confession*, Wilhelm Maurer insisted that CA 28 held the key to understanding the disputed work.<sup>1</sup> The power of the bishops was precisely the central point of contention between the Saxon party and empire and pope, given the unauthorized visitation of 1527–1529 and other acts of defiance throughout the 1520s. At the very least, Maurer’s argument provides a helpful antidote to works like that of Leif Grane, who only comments in depth on the first twenty-one articles of the CA.<sup>2</sup> In some ways, however, this important insight fails to take into account how the drafters of the CA, Philip Melanchthon in particular, presented their case – not only in CA 28 but throughout their arguments over the disputed articles. By carefully observing the method used in these articles, the reader discovers a single-minded application of justification “by grace through faith on account of Christ” (CA 4) coupled with a judicious use of a wide variety of Scriptural and ecclesiastical authorities.<sup>3</sup> Thus, articles twenty-two through twenty-eight provide the practical application of the Evangelicals’ approach to theology that still may also support present-day ecumenical conversations.

## **1 The Disputed Articles’ Use of Authorities**

One of the most persistent weaknesses in descriptions of the Reformation arises from the phrase *sola Scriptura*, a concept that first developed in the seventeenth

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1 Wilhelm Maurer, *Historical Commentary on the Augsburg Confession*, trans. H. George Anderson, Philadelphia 1986, 27: “Thus it [version C of the *Torgau Articles*] deals with the question that underlies all of the ‘disputed articles,’ a question that found its final answer later in CA 28.”

2 Leif Grane, *The Augsburg Confession: A Commentary*, trans. John H. Rasmussen, Minneapolis 1987, 23: “Only the most essential aspects are dealt with in Articles 22–28, the so-called abuse articles. To attempt to deal with them even somewhat thoroughly would have taken far too much space.”

3 For the most part, this essay will examine the final text of the CA, in no wise gainsaying the fact that the use of ecclesiastical authorities and the centering on justification already appears in early stages of the document, especially in the *Torgau memoranda* and the *Schwabach* and *Marburg confessions*.

century and then, under pressure of Rationalism, took on a completely different meaning in the nineteenth. To my knowledge, Melanchthon never used the term; even Georg Major, in his tract on the authority of *Scripture*, did not employ it; and Luther used it only eighteen times in his Latin writings, of which nine were instances in which he explicitly said he would *not* argue *sola Scriptura*.<sup>4</sup> Even the other nine are simply instances where he contrasted *Scripture*'s authority to that of the papacy. First among some orthodox theologians do we find examples of a Scriptural monism, so to speak, where all other authorities are rejected or so downplayed as to turn Reformation theology into a caricature of itself.<sup>5</sup> To correct this mistaken view, Peter Fraenkel argued that for Melanchthon *Scripture* is the *primum et verum*, a phrase much closer to the later distinction of *norma normans* and *norma normata*, which also allows for and invites a host of secondary authorities without gainsaying the primary role of *Scripture*.<sup>6</sup>

The disputed articles in no case restrict their authorities to *Scripture* alone. Instead, they include a host of other authorities, much in the style of Melanchthon's later editions of the *Loci communes*, where after discussing *Scriptural* authorities he almost invariably cites patristic authorities in support of his arguments. Nowhere can we see this more clearly than in CA 22 and 23.

## 1.1 *Confessio Augustana* 22

CA 22 defends the Evangelical<sup>7</sup> practice of communion in both kinds. Of all the aspects of medieval practice, this one was one of the most recent, having been decreed at the Council of Constance, although the practice reaches back further

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<sup>4</sup> See Timothy J. Wengert, *Reading the Bible with Martin Luther: An Introductory Guide*, Grand Rapids 2013, 16–21.

<sup>5</sup> See, for example, David Hollaz, *Examen Theologicum Acroamaticum* (1707), 125, as cited in Heinrich Schmid, *The Doctrinal Theology of the Evangelical Lutheran Church*, trans. Charles A. Hay/Henry E. Jacobs, Philadelphia 1875, 52: "Accordingly, we must acknowledge the Holy Scriptures as the only rule and guide of our life, by which alone all controversies in regard to divine things must be settled, so that in no case is the addition of any other authority required, by which they may be decided."

<sup>6</sup> Peter Fraenkel, *Testimonia Patrum: The Function of the Patristic Argument in the Theology of Philip Melanchthon*, Geneva 1961, 162–207.

<sup>7</sup> Because of the varying meanings of this term in English, throughout this essay it will be capitalized to indicate the territories and cities that subscribed the CA.

in the Western Church.<sup>8</sup> The article begins by referring to the command of Christ (Matt. 26:27: "Trincket alle daraus" and *Bibite ex hoc omnes*) and the practice of St. Paul (1 Cor. 11:17–34). Paul's *practice* interprets Christ's words and guards against attacks "und glosieren."<sup>9</sup>

The use of other authorities begins, in the Latin version, with a reference in passing to Nicholas of Cusa, who pointed out [in a writing not identified by BSELK] when the practice was approved by the church.<sup>10</sup> By mentioning Cusa, a proponent of papal authority and an opponent of the Hussites, the drafters underscore the uncertainty of the practice's origins and, at the same time, call it into question because of its recent origin. Thus, for Melanchthon and his collaborators one of the church's favorite sons undermines this practice by virtue of its novelty!

The other references to the traditional practice of communion in both kinds also carry weight with the Evangelicals as they move from the earliest sources to more recent ones. The text vaguely refers to Cyprian, actually to his Epistle 57.2<sup>11</sup>, written with other bishops to Pope Cornelius (whom they call "their brother"), where Cyprian mentions giving the people Christ's blood. Then, in a much clearer citation, they quote directly from Jerome's *commentary on Zephaniah*.<sup>12</sup> Here, where Jerome is trying to emphasize the importance of virtuous living among priests, he mentions in passing distributing Christ's blood to the people.

The *coup de grâce* comes with the next citation: Pope Gelasius as recorded in Canon Law! Both the Latin and German indicate grammatically the special au-

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<sup>8</sup> See Heinrich Denzinger, *Compendium of Creeds, Definitions, and Declarations on Matters of Faith and Morals*, 43d, ed. Robert Fastiggi/Anne Englund Nash, San Francisco 2012, par. 1198–1199 (*Cum in nonnullis*), 325–26.

<sup>9</sup> CA (German) 22.3, where "glosieren" should be taken in a completely negative sense: "add glosses to distort the meaning."

<sup>10</sup> Because the BSELK takes out the reference in the German text to Nicholas of Cusa found in the *Book of Concord*, it does not identify the source in the Latin. BSLK (86, n. 1), on the other hand, gives the reference in the German to Epistola III ad Bohemicos, namely, Nicholas of Cusa, Epistola III: De usu Communionis ad Bohemos, in: Opera, 3 vols., Basel 1565, 2:838–46. Cusa refers there to the *Decretorum libri XX* of Burchard, bishop of Worms, who in turn refers to the Council of Turin [dated either 398 or 415], ch. 4, and its decree concerning communing the dying, which insists upon intinction in the blood of Christ. See MPL 120:754 (= *Decretorum libri XX*, bk. V, ch. IX). The German version of CA 22, by contrast, places this reference properly at the end as the most recent authority. Some of the other patristic references here may come from Cusa's letter.

<sup>11</sup> MPL 3:857–59.

<sup>12</sup> Jerome, *Commentariorum in Sophoniam prophetam* III.1–7 (MPL 25:1375), also found in Canon Law (C. 1 q. 1 c. 90), in: Friedberg I:391. See the following note.

thority of this citation: “der Bapst selbs” and *Immo Gelasius Papa [...]*.<sup>13</sup> The drafters immediately add: “Man findet auch nindert [nirgendwo] kein Canon, der da gebiete, allein ein gestalt zunemen.”<sup>14</sup> The Evangelical theologians, then, have Cyprian, Jerome, and Pope Gelasius on their side, as well as the oldest decrees from Canon Law.

But CA 22 then demonstrates that the drafters understood at least to some degree what they were doing methodologically and why they included other authorities besides *Scripture*, when (to them at least) *Scripture* seemed so unambiguously clear and, hence, authoritative. They solved the dilemma by citing tradition (i.e., canon law) in support of their insistence on Christ’s command (and Pauline practice). “Only a quite recent custom holds otherwise. However, it is evident that a custom, introduced contrary to the commands of God, must not be approved, *as the canons testify [...]*.”

CA 22 thereby unashamedly introduces an Evangelical conundrum similar to that of Augustine’s, “I would not have believed the Gospel if the authority of the church had not moved me.” “We insist on the priority of God’s command on the basis of canon law.” Gratian at this point is citing Augustine, *On Baptism against the Donatists* (III.6) and, in the following chapter, Gregory VII (who is also citing Augustine), before returning to Augustine’s tract (III.5).<sup>15</sup> Chapter six bears the title: “Custom ought to give way to revealed truth,” and quotes Augustine, “For the Lord in the gospel [of John] says ‘I am the truth.’ He does not say, ‘I am the custom.’ Therefore custom gives way to manifest truth.”<sup>16</sup> Thus, the church itself declares itself under the Word of God. The very thing upon which Vatican II’s *Dei Verbum* insisted upon in the twentieth century was already Augustine’s argument in the ancient church, in Canon Law in the twelfth century, and on the lips of the Evangelical confessors in Augsburg by the sixteenth. The church remains under the Word of God, serving it alone. This does not eliminate other authorities; it enhances them as witnesses to the truth.

The last words of this article hint at another aspect of the CA’s method: an appeal not to offend the conscience. This aspect of the CA’s approach to the prac-

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<sup>13</sup> BSELK, 134 & 135, referring to dist. II, de Consecratione, ca. Comperimus [= 12] in: Friedberg I:1318. This is part of a letter by Pope Gelasius I (pope from 492–96) to bishops Majoricus and John of Scylletium in southern Italy. See Gelasius, *Epistola 37 ad Majoricum et Johannem*, in: *Epistolae Romanorum Pontificum Genuinae*, ed. Andreas Thiel, vol. 1: A S. Hilario usque ad S. Hormisdam, Braunschweig 1868, 450–52 (with 42–43).

<sup>14</sup> BSELK, 134, 3–4. The Latin (135, 2–3) states matters a bit more carefully: *Tantum consuetudo non ita vetus aliud habet*.

<sup>15</sup> Gratian, *Decretum* I, dist. 8, ch. 4–6 (*De veritate*), in: Friedberg I:14–15.

<sup>16</sup> Friedberg I:15.

tical issues arises out of its insistence on justification by grace through faith on account of Christ, as we will see much more clearly in the other disputed articles discussed below. Of course, the final line, linking the indivisibility of the sacrament to the Evangelicals' refusal to process with the host, is not simply the weakest argument in this article but hardly pertains to the main topic. Whether one processes or not with the host in a monstrance is only vaguely connected to the question of dividing the sacrament and has far more to do with worshiping the host and distorting the purpose of the meal. Such matters are addressed by Luther and Melanchthon in the 1543 dispute in Eisleben over the *reliquiae sacramenti* and as they develop the notion of the *actio sacramenti*.<sup>17</sup> But given especially Landgrave Philip of Hesse's behavior in Augsburg at the Corpus Christi Day festivities on 16 June 1530, it is no wonder that this comment was added to the final draft.<sup>18</sup> In any case, the reference to processions with the host lacks any of the well-thought-out arguments about method and authority found in the rest of the text.

Already during the March 1530 meeting at Torgau, the Evangelicals were constructing their arguments using not only *Scripture* but also Canon Law and the Fathers. By the time they completed the final text of CA 22, arguments concerning authorities had become a sophisticated aspect of their method. Invoking the ancient sources, part and parcel of Wittenberg's commitment to humanist methodology (*ad fontes*), allowed them to treat *Scripture* as the *primum et verum* but also to introduce the church's own statements and practices to support their change in the customary distribution of the Lord's Supper. The drafters of CA claimed that not only Christ and Paul but also the ancient church and medieval canon law stood on their side in judging the relative novelty of communion in one species.<sup>19</sup>

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17 Timothy J. Wengert, Luther and Melanchthon on Consecrated Communion Wine (Eisleben 1542–43), in: *Lutheran Quarterly* 15 (2001), 24–42.

18 See by contrast the *Torgau Memorandum* from ca. 27 March 1530, now in MBW Texte 4/1:95–109, here 101, lines 165–70.

19 It may even be that this appeal to the Fathers and Canon Law shaped the *Confutatio*, where the authors admit to the early custom of communion in two kinds being discontinued. They also explained the citations made in CA 22, especially the reference to Pope Gelasius, which they insist only applied to priests who abstained from the cup not to the laity.

## 1.2 *Confessio Augustana* 23

As was the case already in 1521 in Martin Luther's *Judgment on Monastic Vows* and the comments of Melancthon and Karlstadt from around the same time, the abandonment of priestly celibacy was a more complicated practice for the Evangelicals to defend.<sup>20</sup> For this reason CA 23 begins with a far different appeal – to experience – especially in the German, where “ein grosmechtige klag inn der welt gewesen von grosser unzucht und wilden wesen und leben der Priester.” In the Latin, a reference to Pope Pius II (1404–1464; pope from 1458) from later in the German version is placed here as an example of such an outcry.

The German and Latin versions of CA 23 have divergent tones and, to some extent, slightly different arguments. The Latin version starts with Biblical references to Paul's admonition to avoid immorality (1 Cor. 7:2, 9b) and Christ's admission that celibacy is not for everyone (Matt. 19:11) before basing the entire argument on God's creation (Gen. 1:28). Those without the “singular gift and work of God” (celibacy) may lawfully marry. Of course, this begs the question of whether *priests* may marry, not whether marriage is God's intent for creation. The second argument comes from the ancient church's practice, starting with Paul's advice for a bishop (1 Tim. 3:2) and the fact that (in Germany at least) priests were married well into the Middle Ages and that they nearly killed the poor Archbishop Siegfried of Mainz (d. 1084) when he imposed mandatory celibacy. The third argument reflects the reformers' eschatology and their conviction about the *senex mundi*.

The remedial effect of marriage becomes the Latin version's fourth argument, which the drafters support with reference to Canon Law's general principle of relaxing the rigor of its rules “on account of human weakness.”<sup>21</sup> Again, CA 23 suggests a practical dilemma, namely, that the church will soon run out of pastors. The Latin version insists in summary that its arguments rest upon the command of God, the ancient custom of the church, and the scandals produced by forced celibacy. To threaten those who break their vows of celibacy with capital punishment leads the drafters to connect current church practices to Paul's warning about the prohibition of marriage as a teaching of demons (1 Tim. 4:1, 3). Then, borrowing from one of Luther's arguments in the 1521 *Judgment on Mo-*

<sup>20</sup> Bernhard Lohse, *Martin Luther's Theology: Its Historical and Systematic Development*, trans. Roy A. Harrisville, Minneapolis 1999, ch. 14: Luther's Dispute with the Monastic Ideal (1520/1521), 137–43.

<sup>21</sup> Gratian, *Decretum* I, dist. 34, ch. 7 and II, Causa 1, q. 7, ch. 5 (Friedberg I:127 & 430). The first deals with deacons who have children by their deceased wife's maid and the second with simony. In both, Gratian's comments urge that certain canonical rules be relaxed.

*nastic Vows*, the Latin version insists: "as no human law can nullify a command of God, so no vow can do so." On this basis, Cyprian himself excused women from their vows and let them marry.<sup>22</sup> Then, as an analogy, the Latin points to the canonical fairness [*aequitas*] in allowing those who made vows as children to be free to marry.<sup>23</sup> This appeal to equity shows just how cautiously the Evangelicals in Augsburg try to prosecute their argument. They do not seem as interested in winning the case for marriage as in preventing punishment for those breaking the law. The underlying assumption is that for priests this practice is a rather recent custom, which can therefore be changed later to reestablish an older, better practice.

The German version, which follows the same basic outline as the Latin, has a few wrinkles that again reveal aspects of the Evangelicals' method. Most importantly, as in the previous article, they include an appeal to the conscience: "Etliche Priester bey uns [...] zeigen diese ursachen, das sie dahin gedrungen und bewegt sind aus hoher not ihrer gewissen." As we shall see below, the appeal to conscience here is not simply referring back to the rich medieval tradition of such appeals but rather is connecting such behavior to justification "by grace through faith on account of Christ." This is also hinted at in the second reference to conscience in the German text: "Wie greulich, schrecklich unruhe und quall ihrer gewissen viel an ihrem letzten end derhalb gehabt, ist am tag, und ihr viel haben es selb bekennet." Indeed, this entire paragraph appeals to experience as an authority, as the text admits: "ob es nu inn menschlicher macht odder vermögen sey [...] hat die erfahrung alzu klar geben."<sup>24</sup>

After this appeal to experience and the witness of *Scripture* to God's creation, the German version also turns to what it labels "historical accounts" and patristic writings, describing in more detail the experience of Archbishop Siegfried of Mainz and the attempts by the pope to dissolve existing marriage – "Welches doch nicht allein wider alle Göttliche, natürliche und weltliche Recht, sondern auch den Canonibus, so die Bepst selb gemacht, und den berümpften Conciliis gantz entgegen und wider ist."<sup>25</sup> It is here that they invoke "Auch ist bey viel

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<sup>22</sup> Cyprian, Ep. 62.2 [or: 61, 11, or 4].

<sup>23</sup> Gratian, Decretum II, Causa 20, q. 1, ch. 5, 7, 9–10, 14–15 (Friedberg I: 844–46). *Aequitas* is the Latin equivalent of the Greek *epieikeia*, an Aristotelian and Ciceronian ethical term much beloved by the reformers.

<sup>24</sup> BSELK, 136, 3 & 7–9; 138, 2–8.

<sup>25</sup> Namely, the Council of Nicea (325). See, for examples of from Canon Law, see Gratian, Decretum I, dist. 82, ch. 2–5 (Friedberg I:127).

hohen Gottfurchtigen, verstendigen leuten,” as well as Pope Pius II – at least according to his biographer, Bartholomeo Platina.<sup>26</sup>

In something of a departure from other articles, the German version includes a direct appeal to the Emperor Charles V, begging him to take into account the increased wickedness in the world and to prevent worse sins from being committed “in German lands.” Given that Canon Law allows for a relaxation of this practice, would this not be the Christian thing to do in this case? Otherwise there would be a shortage of priests. As in the Latin version, the German version also contrasts *Scripture* and history to the “unchristian offense” caused when celibate clergy are prohibited from marrying and punished if they do. The Latin version’s citation of 1 Timothy 4 is enhanced by reference to the devil as a murderer in John 8:44. “Welchs denn wol zusammen stimmet, das es freilich Teuffels lere sein müssen, die ehe verbieten und sich unterstehen, solche lere mit blut vergessen zuerhalten.”<sup>27</sup> An appeal to the young age at which both priests and monks made vows of celibacy closes the German version.

In CA 20, Melanchthon delineated three authorities for Evangelical teaching: *Scripture* (Eph. 2:8–9), the Church Fathers (Augustine and Pseudo-Ambrose [Prosper of Aquitaine]), and experience. In CA 23, these three continue to play crucial roles in defending changes in Evangelical practice. But because of the uncertainty around celibacy – already encouraged by both Christ and Paul – the Evangelicals are forced to use a different kind of argument altogether, one that places experience and, hence, the conscience at center stage. Moreover, by appealing to the Emperor, CA 23 also attempts to make this purely an issue for secular judges, in which that Ciceronian virtue of *epieikeia* (*aequitas*, *Billigkeit*) becomes the basis for judging the case.

## 2 The Disputed Articles’ Appeal to Justification

Putting aside the cacophony of voices among German Protestants condemning the *Joint Declaration on the Doctrine of Justification*, that document represents on several levels remarkable breakthroughs in relations between Lutherans – who are not really Protestants in the modern sense of the term – and Roman Catholics. No statement is more important than what we read in par. 18. Here 400+ years of disputes over the importance of the doctrine of justification are resolved:

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<sup>26</sup> BSELK, 136, 25–28.

<sup>27</sup> BSELK, 140, 10–12.

Therefore the doctrine of justification [...] is more than just one part of Christian doctrine. It stands in an essential relation to all truths of faith, which are to be seen as internally related to each other. It is an indispensable criterion that constantly serves to orient all teaching and practice of our churches to Christ [...] When Catholics see themselves as bound by several criteria, they do not deny the special function of the message of justification.<sup>28</sup>

Later in the history of Lutheran teaching, justification came to be called “the article on which the church stands or falls.”<sup>29</sup> Unfortunately, such a slogan ignores precisely *how* justification actually functions as an “indispensable criterion.” Indeed, such a saying can simply end up meaning the opposite, so that justification by faith alone simply becomes justification by right answer alone. In just this way, the Lutheran churches have over the centuries often slipped back into the worst kind of works righteousness, where the pursuit of *reine Lehre* replaces the good news of salvation in Christ alone. The method used in the disputed articles of applying justification to a wide variety of church practices, provides just the antidote to the misappropriation of this criterion. For this we will concentrate on CA 24–28, skipping over the many examples of how Evangelicals employed a wide variety of authorities to make their case and instead focusing on the various ways they introduced justification by faith (as already confessed in CA 2–6, 12–13 & 20) into their arguments.

## 2.1 Justification in *Confessio Augustana* 1–21

To understand how justification functioned in these later articles, however, a brief description of justification in the doctrinal articles is necessary. CA 2 introduces justification by defining humanity's inherited sin as “lack of faith in God and lack of fear in God.” Although the *Confutation* views fear and faith as two concrete results of sin rather than its source, the introduction of especially “faith” here foreshadows the following articles. Even CA 3 hints toward justification in several ways. For the most part this article prepares for the articles on the Lord's Supper against the Zwinglians' “real absence” and the Roman Catholic

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<sup>28</sup> Joint Declaration on the Doctrine of Justification, English-Language Edition, Grand Rapids 2000, 16 (par. 18). Even the “Annex,” no. 3 states: “The doctrine of justification is that measure or touchstone for the Christian faith. No teaching may contradict this criterion. In this sense, the doctrine of justification is an ‘indispensable criterion [...]’.”

<sup>29</sup> *Articulus stantis et cadentis ecclesiae*. The earliest use of this phrase, attributed to Martin Luther, is found in Balthasar Meisner, *ANΘΡΩΠΟΛΟΓΙΑΣ Sacrae Disputatio XXIV ad statum reparationis pertinens, de vocabulis in articulo iustificationis [...]*, Wittenberg 1615, A 2v. It is nowhere to be found in Luther's writings.

notion of the sacrificial nature of the Mass. Nevertheless, by following the Creed and introducing the Holy Spirit, CA 3 includes these words: “das er [Christus] alle, so an ihn glauben, durch den heiligen geist heilige, reinige, stercke, tröste, ihnen auch leben und allerley gaben und gutter austeile und wider den Teuffel und wider die sunden schütze und beschirme.”<sup>30</sup> As we will see below, the crucial word here is “comfort all who believe in him.”

Of course, article four is always pointed to as the CA’s confession of justification. But this narrows the field far too much. In the first place, the discussion of justification runs from CA 4–6. Second, CA 12, 15, 18 and 20 also give a more nuanced exposition of the teaching. Finally, this broader approach links justification and the distinction between law and gospel, a crucial aspect of how this teaching functions in the lives of Christians.

CA 4–6 first define justification not as a human work or effort through which to obtain (*erlangen*) forgiveness but rather as a gift received (*bekommen*; Latin: *recipi*) by grace through faith on account of Christ. This declaration or imputation (*imputat*) of righteousness arises from Christ’s death on the cross and can only be received in faith and is faith, according to Romans 3–4.<sup>31</sup> Articles five and six make two further specifications about this justification. CA 5 considers the origin of such justifying faith in the Christian as given through the ministry of Word and Sacrament by the Holy Spirit (“Solchen glauben zuerlangen”; Latin: *Ut hanc fidem consequamur*).<sup>32</sup>

The condemnation that follows in CA 5 encompasses both CA 4 and 5 (so that they best could be seen as a single literary unit). The issue, which hardly includes any so-called “Anabaptists,” is actually aimed against the “und andere” (Latin: *et alios*), which meant medieval theologians such as Gabriel Biel and even perhaps Erasmus, who claimed some power for the *liberum arbitrium* quite apart from the working of the Holy Spirit through the external word. It may also be a subtle condemnation of Ulrich Zwingli, who could not (in Evangelical eyes) marry the Holy Spirit’s work to the means of grace.

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**30** BSELK, 96, 17–20. At the same place, the Latin version reads (BC, 39; cf. BSELK, 97, 15–16 & 99, 1–2): “He will sanctify those who believe in him by sending into their hearts the Holy Spirit, who will rule, console, and make them alive and defend them against the devil and the power of sin.”

**31** Identifying specific verses within Romans 3–4, as do modern editions and translations, misses the point. It is the entire sweep of these two chapters that Melancthon had in mind, as his Romans commentaries indicate.

**32** This definition of the *Predigtamt* led earlier generations, including BSLK, 58, n. 1, to smuggle in a reference to the priesthood of all believers rather than to understand that the public office of ministry is always transparent, always serving Word and Sacrament, which the Holy Spirit uses to create faith.

CA 6 also belongs directly to the discussion of justification, indicated by the phrase “das solcher glaub,” namely, the faith introduced in CA 4. That good works are labeled fruit underscores the causative role of “such faith.” Moreover, CA 6 is hardly a single sentence into a discussion of good works before underscoring the origin of these works, done “umb Gottes willen” (*propter voluntatem Dei*) and not to merit anything or to trust in them rather than God’s mercy in Christ. Now, in addition to Romans 3–4, CA 6 introduces the voice of Christ in the Lucan parable, to point out that faith makes Christians into “*untüchtige Knechte*.” Then we hear from Ambrosiaster, (as Erasmus now called him), but still identified here as Ambrose, who provides the CA’s first reference to *sola fide*.

To understand the language in CA 12, we need first to examine aspects of CA 20, the first article to bear a subtitle: “Vom glauben und wercken.” This article arose in direct reaction to Johann Eck’s *404 Artikeln* and his charge that Evangelicals forbade good works. The stakes here were high. Not only did Eck claim that the Evangelicals were propounding heresy, but this particular heresy would lead to the very kind of anarchy that no emperor could tolerate in his realm. After dismissing the charge as false, Melanchthon – whose fingerprints are all over this article<sup>33</sup> – first restates the teaching about faith, “di das heuptstuck ist in christlichem wesen.” “Erstlich, das unser werck uns nit mugen mit Got versonen und gnade erwerben, sonder solichs beschicht allein durch den glauben, so man glaubt, das uns umb Christus willen di sunde vergeben werth, wilcher allein der mitler ist, den vatter zuversunen.”<sup>34</sup> Here, as in many of the Evangelicals’ arguments, *sola fide* (here for the first time in the CA’s own voice) is linked to *solus Christus*. Anyone teaching the contrary undermines true teaching in two ways: “der verachtet Christum und sucht ein eigen weg zu Got wider das evangelium.”<sup>35</sup>

As mentioned above, here Melanchthon parades before the reader three authorities. The first, *Scripture*, cites Ephesians 2:8–9 (Romans 3–4 having already made an appearance in CA 4). The second authority, of the church fathers, proves that such a teaching was not novel but was being held in concert with the ancient church, here represented by Augustine’s *The Spirit and the Letter* and, in the Latin, Ambrose’s [actually Prosper of Aquitaine’s] *Concerning the Calling of the Gentiles*. The third authority is experience, which is crucial for

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<sup>33</sup> See MBW, 894 (T 4/1:134–37), dated ca. April 1530. For further commentary on the *Augsburg Confession*, see Timothy J. Wengert, *The Augsburg Confession: Renewing Lutheran Faith and Practice*, Minneapolis 2020.

<sup>34</sup> BSELK, 119, 1–3 & 10–17.

<sup>35</sup> BSELK, 119, 20–22.

our arguments on CA 24–28. The more complete Latin text deserves to be cited in full.

Moreover, although this teaching is despised by those without experience, nevertheless devout and anxious consciences find by experience that it offers the greatest consolation. For consciences cannot be calmed by any work, but only by faith when they are certain that they have a God who has been reconciled on account of Christ. As Paul teaches in Romans 5[1]: “Therefore, since we are justified by faith, we have peace with God.” This whole teaching must be referred to that struggle of the terrified conscience, and it cannot be understood apart from that struggle. That is why those who are wicked and without experience judge it badly. For they imagine that Christian righteousness is nothing but civil and philosophical righteousness.<sup>36</sup>

There are several important moves that Melanchthon presents here. First, he places the actual experience of justification as the only sure authorization for this teaching. If it remains a theoretical dogma, demanding only the assent of the mind, it is irrelevant. One must experience first terror (death) and then comfort (resurrection), that is, this doctrine actually works on the hearer. As Peter Fraenkel argued a generation ago, and as Siegfried Wiedenhofer and I have argued since then, the two questions of Aristotle that mattered most for Melanchthon were *quid sit* and *quid effectus*.<sup>37</sup> Thus, the true meaning of a doctrine does not become clear unless its divinely ordained effect is joined to it.

This brings us to a third point, namely, the citation of Romans 5:1. At the very time Melanchthon is at Augsburg, his rhetorical outline of Romans was being produced. Although in the 1522 *Annotationes* on Romans, he insisted that Romans 5:1 proved that the kind of faith Paul was discussing was not “historical faith” (such as the devils possess) but trust (*fiducia*), beginning in 1529 and then expanded in 1532, Melanchthon realized that Romans 5:1 actually revealed the effect or consequences of justification – proving that the reformers’ interest in this category of thinking was already foreshadowed in Paul. Here is the way he introduced chapter 5 in 1529/30.

In every disputation, the chief parts are the proposition and the proof [*confirmatio*]. The reader ought always to fix one’s eyes and mind on this [...] There is, however, an epilogue made with remarkable skill. First, the proposition is repeated. Afterwards, it is augmented

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<sup>36</sup> BC, 55 (cf. BSELK, 121, 10–27 & 123, 1–2).

<sup>37</sup> Peter Fraenkel, *Revelation and Tradition: Notes on Some Aspects of Doctrinal Continuity in the Theology of Philip Melanchthon*, in: *Studia Theologica* (Lund) 13 (1959), 97–133; Siegfried Wiedenhofer, *Formalstrukturen humanistischer und reformatorischer Theologie bei Philipp Melanchthon*, 2 vols., Frankfurt a. M. 1976; Timothy J. Wengert, *Philip Melanchthon’s ‘Annotationes in Johannem’ of 1523 in Relation to Its Predecessors and Contemporaries*, Geneva 1987, 203–11.

by the effects of faith. For faith effects tranquility of conscience and arises in the middle of all fears and afflictions, and (third) consolation is added.<sup>38</sup>

This, then, is precisely the effect that Melanchthon described in CA 20.

The fourth point has to do with the contrast between the comfort of justifying faith and those who trust only in a civic or philosophical righteousness. From Melanchthon's *Scholia* on Colossians of 1528 and its translation by Justus Jonas published in 1529, we discover that Melanchthon is specifically targeting Erasmus of Rotterdam, whose attacks on Luther are based not upon the experience of God's mercy but on the confusion of Christian righteousness with a human, philosophical one.<sup>39</sup>

The linking of justification by faith not simply to forgiveness but also and more importantly to comfort for the terrified combines justification with the work of the Holy Spirit through the Word of God on the believer, that is, it combines justification with what the Reformers called the distinction between law and gospel. It needs to be recalled that for the Wittenbergers, this distinction was not so much one about the definition of those two terms (law and gospel) as commands and promises. Instead, both Luther and Melanchthon insisted on defining law and gospel far more in terms of the effects of the Word of God on the hearer, namely, as a word that condemned (leading to terror) and a word that forgave (delivering comfort). They expressed this distinction of effect very early on – in the Heidelberg Disputation of 1518, in Luther's *Freedom of a Christian* of 1520, and in Melanchthon's *Loci communes* of 1521. For both men, this distinction arose out of the original dispute over *poenitentia*. Thus, it is no surprise that this distinction first appears in CA 12.

The debate over the Sacrament of Penance centered on how it was divided, with the Roman party insisting on Peter Lombard's three-fold division into contrition, confession, and satisfaction, while Wittenberg's supporters defined it as a two-fold movement from contrition (sorrow for sin) to faith. That is, as the work of God's Word on the penitent as law and gospel. "Nu ist ware rechte busse eigentlich nicht anders, denn reu und leid odder schrecken haben uber die sund und doch darneben gleuben an das Evangelium und Absolution, das die sund vergeben und durch Christum gnad erworben sey, welcher glaub widerumb das hertz tröst und zu frieden macht."<sup>40</sup> In the *Apology* 12, Melanchthon then ties this movement from terror to comfort directly to law and gospel.<sup>41</sup>

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<sup>38</sup> CR 15:456–57. Cf. the 1532 *Commentarii* (MSA 5:155–56).

<sup>39</sup> See Timothy J. Wengert, *Human Freedom, Christian Righteousness: Philip Melanchthon's Exegetical Dispute with Erasmus of Rotterdam*, New York 1998, 96–101.

<sup>40</sup> BSELK, 106, 6–10.

Returning to CA 20, before defending the Evangelical position on good works, Melanchthon gives a definition of faith. Especially in the Latin version, we can see how faith as trust arises out of justification as comfort for the terrified sinner. “People are also reminded that the term ‘faith’ here does not signify only historical knowledge [...] but that it signifies faith which believes not only the history but also the effect of the history, namely, this article of the forgiveness of sins, that is, that we have grace, righteousness, and forgiveness of sins through Christ.” Invoking Augustine, Melanchthon concludes: “Augustine [...] teaches that in the Scriptures ‘faith’ is to be understood not as knowledge, such as the ungodly have, but as trust that consoles and encourages terrified minds.”<sup>42</sup>

Now other doctrinal articles, especially CA 15 and 18 also touch on aspects of justification and will come to expression in sections of the disputed articles. However, this does not undercut the basic contours of the doctrine outlined here. CA 15 warns “das man die gewissen damit nicht beschweren sol, als seien solche ordnung nötige Gottes dienst, one die niemand fur Gott gerecht sein könne.” Any human traditions that purport to earn grace or appease God “dem Evangelio und der lere vom glauben an Christum entgegen sind.”<sup>43</sup> CA 18 distinguishes the ability of the *liberum arbitrium* to make choices in matters of this world from its inability to fear and love God, to believe, or to drive inborn, evil lusts from the heart. “Sondern solchs geschicht durch den heiligen geist, welcher durch Gottes wort geben wird.”<sup>44</sup>

## 2.2 *Confessio Augustana* 24

Turning first to CA 24, it would seem that Melanchthon quickly realized the importance of the debate over the sacraments’ effectiveness *ex opere operato* and so added in the early printed editions an attack on this teaching found in CA 13.<sup>45</sup> But the objections to the phrase, as dealt with in CA 24, went far beyond

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<sup>41</sup> See BSELK, 453, 7–12: *Haec enim sunt duo praecipua opera Dei in hominibus: perterrefacere et iustificare ac vivificare perterrefactos. In haec duo opera distributa est universa scriptura. Altera pars les est, quae ostendit, arguit et condemnat peccata. Altera pars Evangelium, hoc est promissio gratiae in Christo donatae, et haec promissio subinde repetitur in tota scriptura.*

<sup>42</sup> CA (Latin) 20.24–26, in BC 57 (cf. BSELK, 123, 23–29 & 125, 1–20).

<sup>43</sup> BSELK, 108, 20–22 & 110, 3–4.

<sup>44</sup> BSELK, 112, 19–20. The language echoes CA 2.

<sup>45</sup> BSELK, 108, n. t–t, indicates that the phrase was not found in any manuscript but first in both the German and Latin printings of the 1531 *editio princeps* (cf. BSLK, 68).

a difference in sacramentology and rested instead on justification by faith itself. Here the effect of faith becomes the central concern. Thus, at the outset CA 24 states "So werden auch die leute mit höchstem vleis zum offtermal unterricht vom heiligen Sacrament, wo zu es eingesetzt und wie es zugebrauchen sey, Als nemlich die erschrocken gewissen damit zu trösten."<sup>46</sup> When we recall that Melancthon and his fellow drafters respected and used the rules of rhetoric to structure their arguments, then the position of this comment in the entire article calls even more attention to it. In this case, these comments are part of the *narratio*, a description of the indisputable facts of the case. Whereas "our people" [*den unsern*] were falsely accused of abolishing the Mass [e.g., in Eck's 404 Articles], the facts of the matter were quite different. They were properly instructed especially in the Supper's use, namely, "as a comfort to terrified consciences." Thus, the article of justification stands at the very center of the Evangelicals' argument here.

After going after the notion that the Mass was an unbloodied sacrifice offered up for the sins of those for whom the Mass was intended – a charge strongly rejected by the *Confutation* – CA 24 turns again to justification: "Zum andern, so leret Sanct Paulus, das wir fur Gott gerecht geschetzet werden durch glauben und nicht durch werck."<sup>47</sup> If this point links the Mass to the definition of justification and (according to the Latin original and an addition to the German) rejects the *ex opere operato*, the next point again returns to its proper use. "Zum dritten, So ist das heilig Sacrament eingesetzt [...] das unser glaub dadurch erwecket und die gewissen getröst werden [...]."<sup>48</sup> This is what it means to receive the sacrament "zu seinem Gedächtnis."<sup>49</sup> The rest of the article simply returns to the question of Evangelical practice and describes how, by abandoning private masses, etc., it corresponds to ancient practices.

## 2.3 *Confessio Augustana* 25

This article on private confession also begins by invoking justification by faith to explain its meaning. "Dabey wird das volck vleissig unterricht, wie tröstlich das wort der Absolution sey, wie hoch die Absolution zuachten, denn es sey nicht

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<sup>46</sup> BSELK, 140, 27–30. Latin: *Admonentur etiam homines de dignitate et usu sacramenti, quantum consolationem afferat pavidis conscientiiis.*

<sup>47</sup> BSELK, 144, 11–12.

<sup>48</sup> BSELK, 144, 18 & 20.

<sup>49</sup> A point made more clearly in the Latin version, BSELK, 145, 13–20, where they include a citation of Ambrose of Milan, *De sacramentis* IV, 6, 28 (MPL 16:464).

des gegenwertigen menschen stimme odder wort, sondern Gottes wort, der die sunde vergibt. Denn sie wird an Gottes stad und aus Gottes befehl gesprochen.”<sup>50</sup> After dealing with the two chief differences with their opponents (the recitation of all of one’s sins and the demand for yearly confession to a priest), the article, in good rhetorical form, returns to the central matter of justification: “Doch wirt durch die Prediger dieses teils vleissig gelert, das, ob schon die erzelung der sunden nicht not ist, dennoch privata absolutio zu trost den erschrocknen gewissen sol erhalten werden.”<sup>51</sup> Once again, CA 25 places the sacrament into the original Reformation dispute on justification and its (law and gospel). The *experience* of comfort shapes Wittenberg’s practical acceptance of the sacrament.

## 2.4 *Confessio Augustana* 26

The question of fasting and refraining from certain foods, especially during Lent, had been one of the central flashpoints of reform in the 1520s. The most famous case, of course, occurred in Zürich, where Ulrich Zwingli’s printer, Christoph Froschauer, grilled some Bratwurst in the middle of the Lenten fast of 1522. This was at just the time that Martin Luther, by contrast, was preaching against such provocations for the sake of the weak consciences.<sup>52</sup> By 1530, however, the dietary restrictions had also been removed in the other Evangelical churches, as demonstrated by comments in the *Unterricht der Visitatoren* of 1528.<sup>53</sup>

In CA 26, the argument’s structure differs somewhat from other articles in that the first paragraph simply recounted how in former times the church taught that human traditions earned grace and made satisfaction for sin, as if they were so necessary that by omitting them believers committed great sin. Over against this, in the second paragraph, the drafters felt compelled once again to outline the doctrine of justification. “Erstlich ist dadurch die verheissung Christi und die lere vom glauben vertunckelt, welche uns das Evangelium mit grossem ernst furehelt und treibet hart darauff, das man den verdienst Christi hoch und theuer achte und wisse, das gleuben an Chrstium hoch und weit uber alle werck zu set-

<sup>50</sup> BSELK, 146, 27 & 148, 1–4

<sup>51</sup> BSELK, 150, 10–13.

<sup>52</sup> The so-called Invocavit Sermons, delivered from 9–16 March 1522 (WA 10/2:1–64), especially the fourth sermon, delivered on 12 March (WA 10/2:36–40).

<sup>53</sup> WA 26:223, 18–36, here 18–20: “Über solche satzung, die gemacht sind umb gutter ordnung willen, sind andere, die gemacht sind, der meinung, das sie sonderlicher Gottes dienst sein sollen, dadurch Gott versünet, und gnade erlanget werde [...]”

zen sey."<sup>54</sup> Then comes a single-sentence summary of the doctrine of justification: Saint Paul fought against the imposition of the Law of Moses, "das wir lernen sollen, das wir vor Gott nicht from werden aus unsern wercken, sondern allein durch den glauben an Christum, das uns Gott umb Christus willen one unser verdienst sund vergebe und gerecht schetze."<sup>55</sup> The Latin is even stronger:

In the first place, it has obscured the teaching concerning grace and the righteousness of faith, which is the chief part of the gospel and which ought to be present and prominent in the church so that the merit of Christ is well-known and that faith, which believes in the forgiveness of sins on account of Christ, may be exalted far above works and other acts of worship.<sup>56</sup>

After describing in a second point how such practices contravene God's commands, CA 26 returns to justification, this time focusing on the effects of bad teaching: "Zum dritten: Solche traditiones sind zu hoher beschwerung der gewissen geraten."<sup>57</sup> After putting traditions in their place, so to speak, CA 26 then returns to justification by faith. "Und ist davon also gelert, das man durch haltung gedachter menschlicher tradition nicht kan Gott versünen odder fur sunden gnugthun odder vergebung der sunden verdienen [...]"<sup>58</sup> There follows, then, a raft of Scriptural passages, "proving" their point, followed by a dismissal of the charge that the Evangelicals were like Jovinian (one of Jerome's opponents) This short *confutatio* is followed by the insistence that the Evangelicals taught the suffering of the holy cross as proper, real, and certainly not contrived mortification. In the concluding summary to the article (which functions like a *peroratio*), the article returns one last time to justification. "Daneben aber wirt das volck unterrichtet, das wir umb Christus willen durch glauben gerecht geschetzt werden, nicht von wegen dieser werck, und das man sie one beschwerung des gewissens halten sol [...]"<sup>59</sup>

## 2.5 *Confessio Augustana 27*

If the previous article introduces justification at nearly every turn, CA 27 represents a far different kind of argument. Here, as in CA 23, the case must be

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<sup>54</sup> BSELK, 152, 4–8.

<sup>55</sup> BSELK, 152, 9–12.

<sup>56</sup> CA 26.4 in BC, 75 (BSELK, 153, 3–9).

<sup>57</sup> BSELK, 154, 1–2.

<sup>58</sup> BSELK, 156, 1–3.

<sup>59</sup> BSELK, 160, 3–6. There follows a warning to avoid causing offense.

made very carefully, since the Evangelicals knew that celibacy, self-imposed poverty, and living in obedience under a spiritual leader were not in and of themselves wrong. Moreover, since part of the issue had to do with the marriage of monks and friars, which broke ecclesiastical and imperial law, they had to approach the matter in a very different way. First, the *narratio* spends most of its time recounting a history of monasticism, where (from the Evangelicals' point of view) freely made vows to study *Scripture* and teach gave way to binding, perpetual vows and human structure of living. This led to claims that the vow was equal to a second baptism, that in *Scripture* one must distinguish commands and counsels, and that vows opened the way to a higher way of life and *status perfectionis*.

The defense of the Evangelicals' position begins by defending those monks, nuns, and friars who left their orders to marry. Only then does the article turn to other reasons to allow people to break their perpetual vows, the chief of which is justification. "Dan aller gots dienst, von den menschen on Gottes gepott und befelch eingesetzt und erwelt, gerechtigkeit und Gots gnade zuerlangen, sei wider Got und dem heiligen evangelio [...]"<sup>60</sup> After describing Christ's warning about human traditions, the drafters point out "So lerets auch sanct Paulus uberal, das man gerechtigkeit nit sol suchen aus unsern gepothern und gots diensten, so von menschen erdicht sein, sonder das gerechtigkeit und fromkeit vor Got kombt aus dem glauben und vertrauen, das wir glauben, das uns Got umb seines einigen sons Christus willen zu gnath nimbt."<sup>61</sup> Such teaching about monastic vows served only to darken the gospel.<sup>62</sup>

Over against this "strange angelic spirituality," Melancthon defined perfection strictly along the lines of justification and in language that he would use repeatedly to define the heart of Christian living:

Dan di christlich volkommenheit ist, das man Got von hertzen und mit ernst forchtet und doch auch ein herzlich zuversicht, glauben und vertrauen fast [= faßt], das wir umb Christus willen ein gnedigen, barmherzigen Got haben, das wir mugen und sollen von Got bitten und begeren, was uns not ist und hilf von ime in allen trubsalen gewisslich nach eins yder beruff und gestandt gewarten, das wir auch in des wollen mit vleis eußerlich gute werck thun und unsers beruffs warten.<sup>63</sup>

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<sup>60</sup> BSELK, 177, 6–12.

<sup>61</sup> BSELK, 177, 16–25.

<sup>62</sup> BSELK, 181, 15–22. "Dan gerechtigkeit des glaubens, di man am menisten in der christlichen kirchen treiben sol, wirt vertunckelt, wan den leuthen di augen mit disser seltzamen engelgeistlichkeit aufgesperrt werden und falsch vorgeben des armuts."

<sup>63</sup> BSELK, 181, 28–34 & 183, 1–8.

As far as this article goes, its content and form dictate introducing justification in a different place. Nevertheless, it still shows that the basic defense of all of the disputed articles arises from the Evangelicals' conviction about justification by grace through faith on account of Christ alone.

## 2.6 *Confessio Augustana* 28

The final article, "Concerning the Power of the Bishops," deals with a completely different kind of issue, one that at first glance would seem to have little or nothing to do with justification.<sup>64</sup> Only in the light of Melanchthon's extensive comments in his 1528 *Scholia* on Colossians can we understand how the initial distinction between the "gewalt der bischoffen und das weltlich schwert" arose directly from his convictions concerning the two-fold righteousness, civil and divine.<sup>65</sup> Indeed, his careful distinction between what the gospel authorizes and what the secular power reflected his reading of Luther's *On Secular Authority* (1523) and was also echoed in Luther's letter of 21 July 1530.<sup>66</sup> Once having made this distinction, Melanchthon then defined the bishop's authority in terms of the gospel alone: "Nu leren di unsern also, das der gewalt der schlüssel oder der bischoffen sei laut des evangeliums ein gewalt und befehl, das evangelium zupredigen, di sunde zuvergeben und zubehalten und di sacrament zureichen und handeln."<sup>67</sup> Such a description hearkens back to CA 5, which binds the *Predigtamt* directly to faith.

Having now distinguished ecclesiastical and secular authority, Melanchthon returned to the bishop's authority as bishop, making his case for dividing the two even stronger: "Derhalben ist das bischofflich ampt nach gotlichen rechten das evangelium predigen, sunde vergeben, lere urtheilen und di lere, dem evangelio entgegen verwerffen und di gotlosen, der gotlos wesen uffenbar ist, aus christlicher gemein ausschliessen, on menschlichen gewalt, sonder allein durch Gots

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<sup>64</sup> For a broader discussion of this article, see Timothy J. Wengert, *Priesthood, Pastors, Bishops: Public Ministry for the Reformation and Today*, Minneapolis 2008, 55–76.

<sup>65</sup> See Wengert, *Human Freedom*, 110–36; idem, *Philip Melanchthon and a Christian Politics*, in: *Lutheran Quarterly* 17 (2003), 29–62. Maurer's discussion of this topic and especially what he claims is Luther's dissatisfaction with the removal of remarks aimed at the pope and other matters are completely misguided. See Maurer, *Historical Commentary*, 59–97, where he seems incapable of depicting Luther's response as anything other than negative.

<sup>66</sup> WA Br 5:491–95 (no. 1656; 21 July 1530).

<sup>67</sup> BSELK, 189, 8–14.

wortt.”<sup>68</sup> He backed that up with a favorite verse of his opponents, Luke 10:16: “Were euch horet, der horet mich.”<sup>69</sup> With this, he moved the definition of the bishop’s office even closer to justification, where “gospel” and “forgiveness” are central and, as he insisted here, define the office according to divine right. The Latin version tied the authority of the office even more closely to justification by stating: “according to the gospel, or as they say, by divine right.”<sup>70</sup>

Using Canon Law and patristic citations, CA 28 places limits on episcopal power. Bishops cannot act against the gospel and have certain powers (for example, in regulating marriage) only by human authority. Then, as a kind of *confutatio*, CA 28 poses the question of whether bishops and pastors have authority to institute ceremonies and make laws concerning church practice. After providing some “proof texts” in favor of such action, the article now directly connects episcopal power to justification by insisting on one crucial limitation to it.

Aber di unsern leren in disser frage also, das di bischoffen nicht macht haben, etwas wider das evangelium zusezen und auffzurichten, wie dan obangezeigt ist, und di geistlichen recht durch di ganze neunte distinction leren. Nu ist dis öffentlich wider gots befehlch und wort, der meynung gesetz zumachen oder zugebieten, das man dadurch vor die sunde gnug thu und gnade erlange. Dan es wirt di ehr des verdiensts Christi verlestert, wan wir uns mit solichen sazungen gnade zuverdienen underwinnen [= anmaßen].<sup>71</sup>

The reference to dishonoring Christ’s merit recalls the similar language in CA 20, where the *sola fide* is placed squarely alongside of *solus Christus*.

The drafters then rejected confusing breaking such human ordinances with committing sin, much along the lines of CA 15. Their opponents’ insistence on episcopal authority in these matters resulted in undermining another aspect of justification, a point made by posing the problem as a rhetorically charged question: “Woher haben dan di bischoffe recht und macht, soliche affsetz der christenheit auffzulegen, di gewissen zuverstricken?”<sup>72</sup> After presenting a slew of Scriptural examples, CA 28 concludes: “So nun di bischoffen macht haben, die kirchen mit unzelichen aufsezen zubeschweren und di gewissen zubestricken, warumb verbeut dan di gotliche schrift so oft, di menschliche auffsetz zu-

<sup>68</sup> BSELK, 195, 1–10.

<sup>69</sup> BSELK, 195, 14.

<sup>70</sup> CA 28.21 in BC 95 (BSELK, 195, 4–6: *secundum Evangelium, seu ut loquuntur de iure divino*).

<sup>71</sup> BSELK, 199, 22–34 & 201, 1–2. The reference to Canon Law is Gratian, Decretum I, dist. 9 (Friedberg I:16–18). The entire distinction relates to this issue. Once again, the drafters are using some of the early chapters of canon law to establish their methodology, in this case the priority of *Scripture* over the Fathers.

<sup>72</sup> BSELK, 203, 23–26.

machen und zuhoren? Warumb nenten sie dieselbe teuffels lere? Solt dan der Heiligk Geist solichs alles vergeblich verwarnet haben?"<sup>73</sup> This surprising grand rhetorical turn warned the audience that they were nearing the very heart of the problem. The problem with bishops was not holding authority in the church but using that authority to rob their people of the gospel. "Dan es muß je der furnemst artickel des evangeliums erhalten werth, das wir die gnade Gottes durch den glauben an Christum on unser verdienst erlangen und nicht durch gotes dienst, von menschen eingesetzt, verdienen."<sup>74</sup>

Although ordinances can and must be established for the sake of good order in the church, still they should not burden consciences, as if they were necessary for salvation. Of course, the lesson learned from Luther's *Invocavit* sermons is never far from Melanchthon's mind, so he adds that it is not a sin to break such ordinances, "wan sie dieselben an [ohne] der andern ergernus brechen."<sup>75</sup>

In what amounts to another *peroratio*, Melanchthon summarized the bishop's authority with an appeal to St. Peter, the first bishop of Rome.

Sanct Peter verbeut den bischoffen di herschafft [1 Peter 5:3], als hetten sie gewalt, die kirchen, wortzu si wolten, zutzingen. Ytzt ghet man nicht domit umb, wie man den bischoffen iren gewalt neme, sondern man bit und begert, si wolten di gewissen nicht zu sunden zwingen. Wan sie aber solichs nit thun wurden und disse bit verachten, so mugen sie gedencken, wie sie derhalben vor Got werden antwort geben müssen, dieweil sie mit solicher irer harttigkeit ursach geben zuspaltung und das scisma, das sie doch pillich [verdien-termaßen] solten verhueten, helfen.<sup>76</sup>

Here the pastoral side of justification and the comforting of terrified consciences has become the central argument limiting the power of bishops.

### 3 Concluding Thoughts

We could do much to help thaw today's ecumenical "winter" by paying attention not simply to the doctrine but to the method followed in the *Confessio Augustana*. On the one hand, Lutherans involved in ecumenical conversations with Roman Catholics, among others, need to know the history of the whole church and not act as if Luther in 1517 or the Evangelicals in 1530 were inventing a new church. As Heiko Oberman noted in his essay delivered at the 450<sup>th</sup> anniver-

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<sup>73</sup> BSELK, 207, 9–18.

<sup>74</sup> BSELK, 209, 1–7.

<sup>75</sup> BSELK, 211, 9–10.

<sup>76</sup> BSELK, 219, 9–25.

sary of the CA, the true break in the church came not with Luther or the presentation of the CA but with the *Confutation*, where the opponents rejected the Evangelicals' understanding of justification out of hand and insisted (as the Council of Trent did not) on the role of human merit in justification.<sup>77</sup> One dare never reduce the authorities in the church to *Scripture* but must instead pay more attention to what Melancthon calls in CA 20 the *testimonia Patrum*, the witnesses of the Fathers. We dare not ignore either the continuity of the church's witness to Christ or those clarion voices of Ambrose, Augustine, Prosper of Aquitaine, and Bernard of Clairvaux in our conversations – or other witnesses to Christ in later generations. Otherwise, we run the risk of creating a kind of solipsistic ecumenism, where our own private opinions of *Scripture* and doctrine rule. We only discover how *Scripture* is the *primum et verum* when we discover it aligned with that great “cloud of witnesses” throughout the church's history.

On the other hand, and especially in light of the *Joint Declaration on the Doctrine of Justification*, we have an opportunity to re-view other sticking points in Lutheran-Catholic relations on the basis of our common commitment to the centrality of justification by grace through faith on account of Christ.<sup>78</sup> The more the conversation partners around the ecumenical table are forced to show how their position does not undermine our *joint* teaching on justification, the closer we will come to resolving some of those problems that even today may seem intractable. This especially goes to the questions of the sacrifice of the Mass (CA 24) and the authority of ministers and, especially, bishops (CA 28). As soon as Lutherans and their partners lose sight of justification and instead simply try to defend this or that dogma, winter sets in – not simply in ecumenical conversations but in the churches themselves. If, on the contrary, conversations refocus on comforting the terrified, then all of our churches will discover what really does support the Christian church and its unity: the unconditional love and mercy of God, proclaimed in the Word of God – aural and visible – and used by the Holy Spirit to create faith and the Christian community around the world.

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<sup>77</sup> Now translated into English as Heiko Oberman, *From Protest to Confession: The Confessio Augustana as a Critical Test of True Ecumenism*, and: *Truth and Fiction: The Reformation in the Light of the Confutatio*, in: idem, *The Reformation: Roots and Ramifications*, trans. Andrew Colin Gow, London <sup>2</sup>2004, 149–82.

<sup>78</sup> See Susan K. Wood/Timothy J. Wengert, *A Shared Spiritual Journey: Lutherans and Catholics Traveling toward Unity*, Mahwah, NJ 2016.