

Concordia Theological Quarterly



Volume 75:1-2

January/April 2011

Table of Contents

A Confessional Response to North American Lutheran-Reformed Ecumenism

Mark Mattes 3

Father, Son, and Spirit Is God: What Is the Point?

William C. Weinrich..... 27

God as Secondary Fundamental Doctrine in Missouri Synod Theology

David P. Scaer 43

Luther and Calvin on God: Origins of Lutheran and Reformed Differences

Roland F. Ziegler 63

Luther, Zwingli, and Calvin on the Significance of Christ's Death

John A. Maxfield..... 91

Post-Reformation Lutheran Attitudes

Toward the Reformed Doctrine of God

Benjamin T.G. Mayes 111

Luther's Threefold Use of the Law

Edward A. Engelbrecht 135

Gerhard Forde's Doctrine of the Law: A Confessional Lutheran Critique

Jack Kilcrease 151

Theological Observer..... 180

Ash Wednesday

A Pro-Life Prayer

Gerhard Forde's Doctrine of the Law: A Confessional Lutheran Critique

Jack Kilcrease

The theology of Gerhard Forde (1927–2005) has enjoyed a great deal of influence among traditionalist North American Lutherans over the last thirty years. Though some in The Lutheran Church—Missouri Synod have come to appreciate his work as a theologian, Forde's more liberal attitude toward women's ordination, biblical criticism, and the modern scientific worldview have earned him more support among the moderately conservative members of first the American Lutheran Church and later the Evangelical Lutheran Church in America. Because of the wide influence of Forde as a theologian within traditionalist quarters of both the ELCA and the LCMS, and because of the relatively small amount of secondary criticism that Forde's theology has undergone,¹ it is an important theological task to evaluate critically the adequacy of some of his theological proposals. This essay seeks to begin that process of secondary criticism by examining Forde's doctrine of the law.

Forde's theology changed very little from the early 1980s until his death in August 2005. Much of what he produced in this period appears

¹ The following reviews and articles represent the bulk of the secondary criticism of Forde's theology. Mark C. Mattes, "Gerhard Forde on Revisioning Theology in Light of the Gospel," *Lutheran Quarterly* 13 (1999): 373–393; David Liefeld, "Killing to Make Alive: Cruciform Proclamation in the Writings of Gerhard O. Forde," *Logia* 9, no. 4 (2000): 45–51. Gerhard O. Forde, *On Being a Theologian of the Cross* (Grand Rapids: Wm. B. Eerdmans Publishing Co., 1997) has been reviewed by Mickey L. Mattox, *Journal of Evangelical Theological Studies* 42 (1999): 536–537; Scott H. Hendrix, *Theology Today* 56 (April 1999): 146–147; Craig L. Nesson, *Currents in Theology and Mission* 26 (1999): 64; Del Jacobson, *Word and World* 18 (1999): 328–329. Gerhard O. Forde, *Theology is for Proclamation!* (Minneapolis: Fortress Press, 1990) has been reviewed by Andrew M. Weyermann, *Lutheran Quarterly* 6 (1993): 93–95; Paul Scott Wilson, *Homiletics* 16, no. 2 (1991): 11–12; David J. Monge, *Word and World* 11 (1991): 426; Charles B. Bugg, *Religious Education* 88 (1991): 291; Jay C. Rochelle, *Currents in Theology and Mission* 17 (1990): 463–464. Gerhard O. Forde, *Justification by Faith: A Matter of Death and Life* (Philadelphia: Fortress Press, 1982) has been reviewed by J. Raitt, *Interpretation* 38 (1984): 98. Gerhard O. Forde, *The Law–Gospel Debate: An Interpretation of Its Historical Development* (Minneapolis: Augsburg Publishing House, 1969) has been reviewed by Theodore G. Tappert, *Lutheran Quarterly* 21 (1969): 472–473; P Joseph Cahill, *Theological Studies* 30 (1969): 517–520; David L. Mueller, *Religious Education* 66 (1969): 451–452.

merely to sharpen the contours of the basic theological agenda outlined in his doctoral dissertation, *The Law-Gospel Debate* (1969). This will, therefore, be our chief source for Forde's theology of the law. We will also consider some of Forde's later works, including *The Work of Christ* (1984), a contribution he made to the Braaten and Jenson *Christian Dogmatics*, as well as Forde's *Theology is for Proclamation!* (1990) and a number of smaller essays published in *A More Radical Gospel* (2004) and *The Preached God* (2007).

This article will consider Forde's work from a confessional Lutheran perspective, judging his theology following the norms implicit in the teaching of the early Confessions and explicit in the Formula of Concord. The first basis for evaluation will therefore be the Scriptures, which all of the Lutheran confessional authors viewed as the supreme authority in deciding theological controversies. The Formula of Concord begins, "We receive and embrace with our whole heart the Prophetic and Apostolic Scripture of the Old and New Testaments as the pure, clear fountain of Israel which is the only standard by which all teachers and doctrines are to be judged."² The authors of the Formula identify the secondary authority through which they understand the Scriptures in making theological decisions as "the three Ecumenical creeds, namely, the Apostles', the Nicene, and Athanasian,"³ as well as the previous Confessions of the Evangelical Lutheran Church⁴ and Luther's Catechisms.⁵ Finally, the confessors invoke the writings of Luther himself: "To his [Luther's] doctrinal and polemical writings we wish to appeal."⁶ In the case of Luther, the authors recognize a figure who has been particularly chosen by God and who, by God's providential care, has been raised up to teach the pure gospel to the church in the last days. Although Luther must be thought of as a private theologian, and not everything that he has written is authoritative (a point strongly emphasized by Luther himself), his writings nevertheless rank as an important secondary authority below the ecumenical creeds and the other confessions of the church. He is also important in our evaluation of Forde's doctrine of the law because he becomes the key for determining whether Forde is correct in his claim that

² FC SD, Norm and Rule, 1, in *Concordia Triglotta: The Symbolical Books of the Evangelical Lutheran Church*, ed. F. Bente and W.H.T. Dau (St. Louis: Concordia Publishing House, 1921), 851 [henceforth Triglott].

³ FC SD, Norm and Rule, 2; Triglott 851.

⁴ FC SD, Norm and Rule, 3; Triglott 851.

⁵ FC SD, Norm and Rule, 6; Triglott 853.

⁶ FC SD, Norm and Rule, 6; Triglott 853.

later Lutheranism, particularly the Lutheran orthodoxy of the seventeenth century, abandoned Luther's original insights regarding the law.

I. Forde's General Concept of the Law

In *The Law-Gospel Debate*, Forde begins by critiquing seventeenth-century Lutheran orthodoxy. Much of Forde's treatment here is based not directly on the primary sources but on the work of Lauri Haikola, a Finnish Luther scholar who denied that Luther taught the eternity of the law.⁷ Forde cannot accept the orthodox Lutheran definition of the law as "the eternal will of God" (*lex aeterna*), which makes the law into an abstract reality existing in God's eternal being.⁸ Instead, Forde insists that the law be defined as a concrete reality within human experience, "law" being "a general term for the manner in which the will of God impinges on Man,"⁹ which can take place through a "bolt of lightening, the rustling of a dry leaf on a dark night, the Decalogue, the 'natural law' of the philosopher, or even (or perhaps most particularly) the preaching of the cross itself."¹⁰ In effect, the law is less a set of commandments than a generalized existential dread experienced by human beings in the old, evil age. Scott Murray, in his superb work on the law in twentieth-century American Lutheran thought, agrees with this characterization of Forde's position: "The Law is merely and entirely a threat to being. . . . The person only feels the unease caused by the threat of the Law."¹¹

Part of Forde's interpretation comes from his re-reading of Luther's disputations against the Antinomians, in which Luther describes the law as it relates to the angels and the beatified as an "empty law" (*lex vacua*), or in other words, as a law that cannot accuse or demand and, therefore, has ceased to be law.¹² If one has come into compliance with the law through the death and resurrection of faith, then one is no longer under the law. The term "law," therefore, according to Forde, only technically refers to the experience of dread proceeding from non-compliance with God's will.

⁷ According to Haikola, Melancthon reincorporated the doctrine of *lex aeterna* into Lutheran thought; see Lauri Haikola, *Studien zu Luther und zum Luthertum* (Uppsala: Lundequistska Bokhandeln, 1958); "A Comparison of Melancthon's and Luther's Doctrine of Justification," *Dialogue* 2, no. 1 (1963): 32-39.

⁸ Gerhard O. Forde, *The Law-Gospel Debate: An Interpretation of Its Historical Development* (Minneapolis: Augsburg Publishing House, 1969), 3-11.

⁹ Forde, *The Law-Gospel Debate*, 192.

¹⁰ Forde, *The Law-Gospel Debate*, 177.

¹¹ Scott Murray, *Law, Life and the Living God: Third Use of the Law in Modern American Lutheranism* (St. Louis: Concordia Publishing House, 2001), 128.

¹² Forde, *The Law-Gospel Debate*, 180-187.

Forde assumes that the law can only function as a positive demand on the human person when he is out of compliance with it. For the law to ask a righteous person to do something would be rather like asking an oak tree to produce acorns. If we are sanctified by faith, then all is fulfilled and the law is therefore ended. To this effect, Forde cites Luther: "Where sin ceases, there law ceases, and to the degree that sin ceases, to that degree law ceases, so that in the future life the law ought to completely cease, because then it will be fulfilled."¹³ According to Forde, Luther understands the law as merely an interim measure between the fall and the eschaton.¹⁴

From a confessional Lutheran perspective, Forde's definition of the law as merely the pervasive accusing activity of God is inadequate. The first problem is that the Formula of Concord defines the law as "the eternal and immutable righteousness of God."¹⁵ For the confessional authors, then, the law also designates God's eternal will for human beings apart from its temporal effect, which after the fall will necessarily be accusing. The definition offered by the Formula of Concord accurately represents the biblical understanding of God as the eternal and immutable author of the law.¹⁶

We should, of course, not underplay the fact that in this present evil age, the law continuously accuses us through media of nature and Scripture. On this point, the Formula of Concord favorably quotes Luther: "Anything that preaches concerning our sins and God's wrath, let it be done how or when it will, that is all a preaching of the law."¹⁷ Furthermore, in this age there is no non-accusing law: "*lex semper accusat nos!*" (The law always accuses us!)¹⁸ Nevertheless, if we accept Forde's premise that the law is that which accuses and threatens in this evil age, then why cannot the law additionally exist as the eternal will of God? In other words, if God is operative in the masks of his creatures (*larva Dei*), threatening and accusing sinners as Luther states,¹⁹ then would not this activity be an expression of the eternal will of God, against which sinful

¹³ Forde, *The Law-Gospel Debate*, 182, quoting from WA 39.I:431,5-7 (Forde's translation).

¹⁴ Forde, *The Law-Gospel Debate*, 178-199.

¹⁵ FC SD III; Triglot 935.

¹⁶ Exod 3:14, 20:1-21:1, 24:14; Num 23:19; Deut 32:4; 1 Sam 15:29; Ps 33:11, 46:1-5, 102:25-27; Isa 46:10, 54:10; Lam 3:21-23; Mal 3:6; Heb 6:17, 13:8; Jas 1:16-18; Titus 1:2.

¹⁷ FC SD V; Triglot 955.

¹⁸ Ap III; Triglot 168.

¹⁹ Martin Luther, *Luther's Works*, American Edition, 55 vols., ed. Jaroslav Jan Pelikan, Hilton C. Oswald, and Helmut T. Lehmann (Philadelphia: Fortress Press; St. Louis: Concordia Publishing House, 1955-1986), 26:95 [henceforth LW].

human beings are in revolt? If God is eternally life itself,²⁰ he must necessarily will the life of his creatures eternally. This becomes condemning after the fall, when creatures have murderous impulses and engage in murder (hence the need of the Fifth Commandment!). Nevertheless, although the content of God's will does not change, one's own existential relationship to that will does change. If God's will were not eternal, there would be no eternally valid content for the human race to violate.²¹

Holding these two aspects of the law together, therefore, is the only logical solution in light of Scripture and the confessional tradition. In fact, Theodosius Harnack more than a hundred years ago attempted to hold both aspects of the law together in Luther's thought by suggesting that Luther made a distinction between the "office" and "essence" (*Amt und Wesen*) of the law. Though in the present age of sin and death it is the office of the law to accuse and condemn sinners through the medium of God's created masks, the law is nevertheless also a positive good, which expresses the eternal will of God for human beings.²² This distinction

²⁰ Gen. 1-2; John. 1.

²¹ David Scaer agrees that we can distinguish between the law's original intent and how it acts upon us in a state of sin: "Sin transformed the law. For example the command not to murder reflects that God is life. This and the other negative assertions of the Commandments do not have an eternal origin in God, but are the positive commands of God reflecting his eternal nature, now transformed and translated into terms which man in the state of sin can understand." David Scaer, "Law and Gospel in Lutheran Theology," *Logia* 3, no. 1 (Epiphany, 1994): 30. David Yeago suggests that this way of construing the law as purely a negative threat is more a function of nineteenth- and twentieth-century Luther research than of Luther himself. See David Yeago, "Gnosticism, Antinomianism, and Reformation Theology," *Pro Ecclesia* 1 (1993): 37-49. Yeago writes: "If it is true that the law oppresses because of its formal character as ordered demand, then the converse would also seem to hold: anything with the formal character of ordered demand oppresses" (41). Yeago's language of "ordered demand" is nevertheless also problematic in that it calls to mind the Thomistic concept of law as "ordering principle." See Mark Mattes' critique in "The Thomistic Turn in Evangelical Catholic Ethics," *Lutheran Quarterly* 16 (2002): 65-100.

²² See Theodosius Harnack, *Luthers Theologie besonderer Beziehung auf seine Versöhnung und Erlösungslehre*, vol. 1 (Amsterdam: Rodopi, 1969), 368-401. Robert Schultz has argued that Harnack's view might be based on some faulty understandings of certain statements of Luther and in one case an inaccurate translation. See Robert C. Schultz, *Gesetz und Evangelium in der Lutherischen Theologie des 19. Jahrhunderts* (Berlin: Lutherisches Verlagshaus, 1958), 142. Schultz is well known for his work as a partisan in the great LCMS civil war of the 1970s. For critique of Schultz (among others), see David Scaer, "The Law Gospel Debate in the Missouri Synod," *Springfielder* 36 (December, 1972): 156-171; "The Law Gospel Debate in the Missouri Synod Continued," *Springfielder* 40 (September, 1976): 107-118. Based on the evidence that we will see

appears to work well on certain texts of Luther's. In the Antinomian Disputations, for example, Luther states that "the Decalogue is eternal"²³ and distinguishes its reality as the eternal will of God from the "office of the law," which is "whatever shows sin, wrath, and death."²⁴ Such remarks appear in part to vindicate Harnack's distinction. In the Genesis lectures, the Reformer discusses the existence of the law before the fall and insists that the claim that the law did not exist before the fall is "full of

below, there is at the very least a strong suggestion that Luther did make such a distinction. In any case, even if he did not literally use the distinct terms "essence" and "office" as terminology, conceptually the distinction appears to be present. He did not, for example, use christological terminology such as "genus majestaticum," but conceptually he affirmed what Chemnitz and Lutheran orthodoxy meant by these terms.

²³ Martin Luther, "The First Disputation Against the Antinomians, Argument 34," in *Only the Decalogue is Eternal: Martin Luther's Complete Antinomian Theses and Disputations*, ed. and trans. Holger Sontag (Minneapolis: Lutheran Press, 2008), 75. James Nestingen claims that this statement of Luther's refers to the eternal restoration of creational relationships: "The law signifies the restoration of the defining relationships of life: the first commandment, with the second and third, in relation to God; the remaining commandments in relation to the neighbor and the earth. These are the relationships of redemption, of the hope of faith. Consequently, Luther insists, they are eternal: they never end." James A. Nestingen, "The End of the End: The Role of Apocalyptic in the Lutheran Reform," *Word and World* 15 (1995): 200–201. This is not a plausible interpretation of this statement for three main reasons. First, Nestingen (following Forde and Wingren, as we shall see later) wrongly conflates "law" with "vocation." Our creational vocations do not automatically dictate how we carry them out. This is evident from the fact that commandments are given in relationship to previously existing creational relationships and do not command them. For example, we are told, "do not commit adultery," not, "get married." In other words, God already assumes that people marry as part of the created order that he established in the beginning. Luther assumes this as well in the Catechism in that he does not instruct people to stand in certain creational relationships, but already assumes they exist and must be regulated by the commandments. Second, the relationships we have with God and creation do end at the last judgment, when Christ will rule and there will be no need of civil government. We will "see God"; consequently, we will not need the preaching of the word or the office of the ministry. We will neither "give in marriage nor be given in marriage"; therefore marriage and the family will also cease. Luther fully expected this (as we shall see below), and it is therefore impossible to base this interpretation on these words. Lastly, it is evident from the context that Luther is clearly referring to the law as God's will for his creatures. He is not talking about creational relationship, which may or may not reflect God's will for them. What actually appears to be going on is that Nestingen here is attempting to uphold Forde and Hakola's rejection of *lex aeterna*.

²⁴ Luther, "Second Set of Antinomian Theses, Thesis 18," in *Only the Decalogue is Eternal: Martin Luther's Complete Antinomian Theses and Disputations*, ed. and trans. Holger Sontag (Minneapolis: Lutheran Press, 2008), 80.

wickedness and blasphemy."²⁵ If the law did exist before the fall, then Luther must have believed that the law had an existence apart from its condemning effect and the ensuing sense of human existential dread. This would also suggest that Luther defined the law identically with the Formula of Concord, where, as we noted, both aspects of the law are held together.

If God's will threatens humanity, then it must do so because humans have been disobedient to it. If it has been disobeyed, then it must have existed prior to its violation and therefore must have an existence apart from sin. As we noted, Forde assumes this and must admit at least on some level that the law is eternal insofar as it is God's will. The law is only abrogated because the creature comes into compliance with it and as a result neutralizes its threat. At this point, Forde has merely reworded the definition of the law in his identification of it with the human experience of threat. He has not eliminated the law as something which objectively exists prior to human sin. He has simply suggested that creatures possess different experiences relative to it. In the process, Forde effectively makes human experience of the law into the definitive theological criterion for describing the reality of the law. He thereby endangers the objectivity of the content of the law as revealed in nature and Scripture. On an epistemological level, one suspects that the Kantian denial of the ability to know the thing in itself (the *Ding an sich*) underlies this refusal.²⁶ By only

²⁵ LW 1:108. Peter Meinhold claimed that the Genesis lectures were compromised by Melancthonian influences, particularly on the issue of the law. See Peter Meinhold, *Die Genesisvorlesung Luthers und ihre Herausgeber* (Stuttgart: W. Kohlhammer, 1936), 44–52. Surveying Meinhold's work, this has to do partially with a perception among scholars of that generation that there was a profound theological difference between Luther and Melancthon. Certain scholars attempt to continue to maintain this view of Luther and Melancthon and of the Genesis lectures; see Nestingen, "The End of the End," 195–205; "Luther in Front of the Text: The Genesis Commentary," *Word and World* 14 (1994): 186–194. Mickey Mattox has shown that Meinhold's position is inaccurate in that it relies on an "abstract set" of alleged differences between Luther and Lutheran orthodoxy and not on clear textual evidence. It would therefore appear that the text we possess, with minor additions, is representative of the theology of the mature Luther. See Mickey Mattox, *"Defender of the Holy Matriarchs": Luther's Interpretation of the Women of Genesis in the Enarrationes in Genesin, 1535–45* (Leiden: Brill, 2003), 265–266.

²⁶ I have argued at length elsewhere that this is probably the best explanation of Forde's position. See my doctoral dissertation, "The Self-Donation of God: Gerhard Forde and the Question of Atonement in the Lutheran Tradition" (Diss., Marquette University, 2009). As I show, Forde's doctrine of law and atonement are heavily dependent on the nineteenth-century neo-Lutheran theologian Johannes von Hofmann. See the following works: Matthew L. Becker, *The Self-Giving God and Salvation History: The Trinitarian Theology of Johannes von Hofmann* (New York: T & T Clark International,

identifying the law with the sinner's experience of wrath, Forde reduces the law to a human experience and tends toward a theological anti-realism.²⁷ This does not mean that Forde is an outright theological anti-

2004); C.K. von Hofmann, *Interpreting the Bible*, trans. Christian Preus (Minneapolis: Augsburg Publishing House, 1959); J.C.K. von Hofmann, *Encyclopädie der Theologie. Nach Vorlesungen und Manuscripten herausgegeben von H.J. Bestmann* (Nördlingen: C.H. Beck, 1879); J.C.K. von Hofmann, *Theologische Ethik* (Nördlingen: C.H. Beck, 1878). Von Hofmann taught (based on Kant and Schleiermacher) that all Christian doctrine must represent human religious experience. In this he did not ignore the historical nature of Christian truth, but rather claimed that our certainty that the events of the history of salvation occurred was based on the fact that our present religious experience could have no other explanation than that history as it is present in Scripture was basically true (I say "basically" because von Hofmann denied the inerrancy of the Bible). Any doctrinal position which demanded our assent simply based on its reality as a revealed truth in the Bible could not be accepted as anything other than an abstraction beyond human experience. Therefore, von Hofmann completely rejected the idea of the necessity of atonement based on the Scriptures' teaching regarding the infinite nature of divine wrath and need for a payment for sin. In the same way, Forde considers any description of the law which does not correspond to the human experience of "threat" or "accusation" to be pure abstraction, i.e., effectively a *Ding an sich* which, standing outside of the phenomenal, cannot be known. Robert Preus has noted the tendency of modern concepts of revelation to existentialize and interiorize God's self-disclosure. See Robert Preus, "The Doctrine of Revelation in Contemporary Theology," *Bulletin of the Evangelical Theology Society* 9, no. 3 (1966): 111-123. We should, of course, be careful to mention that Forde does not entirely accept von Hofmann's scheme because of Forde's negative assessment of the concept of *Heilsgeschichte*: "Hofmann operated with a theory about a divine love-will which realized itself in a historical process," a theory that is not an authentic realization of biblical or confessional theology, but rather is "borrowed from German Idealism." Forde, *Law-Gospel Debate*, 73-74. Such a theory is in the end no better in Forde's view than orthodoxy. Both marginalize the law from the actual experience of sinners. In orthodoxy, law is placed in an abstract eternal divine will, whereas with von Hofmann law is placed safely in a bygone historical dispensation. Furthermore, both made Jesus' death into a clean and easy part of a divine plan of which the Savior was all too aware (73-76). Forde considers this to be a form of Docetism. It is difficult to agree with the second criticism. First, Jesus in the Gospels is perfectly aware of the divine plan of salvation realized through him. If this can be characterized as Docetism, then the divinely inspired Gospels are themselves Docetic, an unacceptable conclusion for orthodox Christianity. Second, according to the Gospels, it is precisely that Jesus knows his death will realize the plan of salvation that makes him distraught over its prospect (see Luke 12:49-53). Nevertheless, Forde's criticism of von Hofmann on the second point is warranted. In this, Forde more than von Hofmann is able to maintain the *simul* of Christian existence in that he allows the experience of divine law to persist throughout the life of the Christian, rather than be relegated to a bygone historical dispensation.

²⁷ For criticism of this tendency in modern theology, see Kurt Marquart, "The 'Realist Principle' of Theology," *Logia* 5, no. 3 (Holy Trinity, 1996): 15-17. Also see Dennis Bielfeldt, "Luther's Late Trinitarian Disputations: Semantic Realism," in Dennis

realist. The definitions he presents merely make this a possible tendency of his thought.

Neither does Forde allow his position to be corrected through Harnack's essence/office distinction. Forde claims that if we accept Harnack's distinction, we place ourselves above the concrete situation of the law,²⁸ because to consider the law according to its essence (i.e., as the eternal will of God), apart from its accusing effect on human beings, is to "view it in the abstract. . . . This allows man to place himself above the law and to look at it from God's point of view."²⁹

This conclusion seems less than satisfactory. Why would a sinner's recognition of the law as God's eternal will, originally intended for his good but corrupted by sin, necessarily involve the sinner placing himself above the law in a realm of abstractions? To say that the law is God's eternal will and that apart from sin it does not accuse need not contradict its present accusing effect. It is no more an abstraction to say that the law at one time functioned differently (before the fall) than it is to say that the world once existed in a state other than we presently find it. Though such a world is beyond our present experience, it is certainly not unthinkable or a pure abstraction. For example, if within my present experience I am poisoned by cyanide, I can nevertheless recognize that the chemical has a reality apart from its harmful effects on me.³⁰ I can also recognize that it originally possessed a good use (i.e., as a cleaning agent). In the same way, Paul recognized the original intent of the law as something good without placing himself above it. In the midst of an intense confession of sin, Paul states, "I found that the very commandment that was intended to bring life actually brought death" (Rom 7:10). Indeed, what Forde's objection at this point actually demonstrates is his tendency to reduce theological statements to the realm of human existential experience. Thus, any statement which does not directly relate to an existential experience, including the positing of the eternity of the law, must be jettisoned as a "pure abstraction."

Bielfeldt, Mickey L. Mattox, and Paul R. Hinlicky, *The Substance of the Faith: Luther's Doctrinal Theology for Today* (Minneapolis: Fortress Press, 2008), 59-130.

²⁸ Forde, *The Law-Gospel Debate*, 184-185.

²⁹ Forde, *The Law-Gospel Debate*, 185.

³⁰ David Scaer expresses a similar understanding: "Though law appears to man in the state of sin as demanding and punishing, law as it exists in God is neither demanding nor punishing, but it is positive affirmation expressing God's relationship to creation." Scaer, "Law and Gospel in Lutheran Theology," 30.

The claim that the law existed before the fall leads to further claims regarding the law's definition and its place in the Christian life. If the law existed before the fall, then it possesses a positive use in regulating creation from the beginning and cannot be reduced to existential dread or threat. Luther emphasized this point in the passages of the Genesis lectures that deal with the orders of creation.³¹ Nevertheless, this does not mean that Luther believed that human beings were bound to something akin to the covenant of works in Reformed thought.³² Humanity did not need to "earn its keep," so to speak.³³ Rather, Luther argues that the law functioned as a needed "channel"³⁴ whereby humanity might use its own natural goodness to glorify God and regulate the created order.³⁵ This law would therefore also express God's will in accordance with his eternal purpose for creation. Such a purpose comes to express itself in the threat of civil coercion after the fall, but it nevertheless remains true that the law represents God's original intention and relationship to the created order. Forde does not address the law's original role before the fall, an omission that presents something of a loose end. Implicit in Forde's position is the idea that prelapsarian human beings, who were in compliance with the law, could never possess the law as a positive demand. If they did, then they would be out of compliance with it, since the law in Forde's thinking can only command in a situation of sin.

³¹ LW 1:80, 95, 104, 115–116. See Theo M.M.A.C. Bell, "Man is a Microcosmos: Adam and Eve in Luther's *Lectures on Genesis* (1535–1545)," *CTQ* 69 (2005): 159–184. On the law in the Genesis lectures, see David Yeago, "Martin Luther on Grace, Law, and Moral Life: Prolegomena to an Ecumenical Discussion of *Veritatis Splendor*," *Thomist* 62 (1998): 163–191.

³² For the Reformed "covenant of works," see Wayne Grudem, *Systematic Theology: An Introduction to Biblical Doctrine* (Grand Rapids: Zondervan, 1995), 516–518.

³³ David Scaer agrees with Luther's assessment: "The law as a positive affirmation was understood by man only during his brief stay in paradise. He knew God as his Creator, accepted his responsibility for creation and procreated. He was prohibited from stepping out of this positive relationship with God. But this prohibition is not arbitrarily superimposed on man to test him, but was simply the explanation or description of what would happen to man if he stepped outside of the relationship with God in which he was created." Scaer, "Law and Gospel in Lutheran Theology," 30.

³⁴ This description is offered by David P. Scaer, "Formula of Concord Article VI: The Third Use of the Law," *CTQ* 42 (1978): 152.

³⁵ This is Luther's understanding of the command not to eat from the tree of the knowledge of good and evil. "The church was established first because God wants to show by this sign, as it were, that man was created for another purpose than the rest of the living beings. Because the church is established by the Word of God, it is certain that man was created for an immortal and spiritual life, to which he would have been carried off or translated without death after living in Eden and on the rest of the earth without inconvenience as long as he wished." LW 1:104.

How, then, is Luther's statement about law ceasing together with sin consistent with his explicit belief that the law existed as a positive commandment before the fall?³⁶ Luther is clear that human beings before the fall had the eschatological destiny of being translated into heavenly existence, as does fallen humanity.³⁷ In such a final state of consummation, there is no need for the command to "be fruitful and multiply," since "people will neither marry nor be given in marriage" (Matt 22:30). Similarly, in the final state there will be no need for preaching the word of God, since all will see God "face to face" (1 Cor 13:12). Such an interpretation is not inconsistent with the way in which the New Testament authors interpret creation and eschatology. The author of Hebrews understands the Sabbath rest as being a type of the eternal rest toward which creation has always been moving (Heb 3-4). In the same vein, Peter Brunner notes that the structure of the week in the primal state, in which work leads to a day of rest and worship, is an image of the history of creation. The movement of history must eventually end in God's eternal rest and the integration of temporal worship into that of the celestial hosts.³⁸ If this is correct, then it would appear that Luther views the law ending not merely together with sin, but rather with the end of temporal creational relationships.

Regarding the prelapsarian existence of the law, if human beings existed before the fall, then they presumably existed in a state in which the law did not threaten or accuse. This claim leads to two major problems. First, how would human beings have guided their moral conduct within the prelapsarian order? Genesis 1 and 2 appear to suggest that human beings had a definite set of commands which they were asked to obey. Forde partially resolves this problem by denying the literal historical truth of the creation and fall narratives in Genesis.³⁹ This nevertheless leaves the more serious problem: if the stories of Genesis 1-3 are not to be taken literally and the world has always been governed by the law of entropy and nature "red in tooth and claw," then human beings would presumably always have been under the threat of the law. According to Paul, however, "The sting of death is sin, and the power of sin is the law" (1 Cor 15:56). Creation would in effect then be redeemed by Christ in his death and

³⁶ Forde, *The Law-Gospel Debate*, 182, quoting from WA 39.I:431,5-7.

³⁷ "Later on he would have returned to his working and guarding until a predetermined time had been fulfilled, when he would have been translated to heaven with the utmost pleasure." LW1:106.

³⁸ Peter Brunner, *Worship in the Name of Jesus*, trans. M.H. Bertram (St. Louis: Concordia Publishing House, 1968), 38-41.

³⁹ Forde, *Theology is for Proclamation!*, 50-51.

resurrection not from the effects of the fall, but from its original and actual state of existence. Forde insists in *Theology is for Proclamation!* that we take the fall seriously as a historical event (albeit somewhere in the recesses of human history, certainly not the literal event recorded in Gen 3), but then declines to reconcile this with the presence of death and violence (i.e., the threat of the law) within the biological order prior to human beings evolving reflective consciousness.⁴⁰ Forde suggests that we accept the modern, scientific worldview as something objective and neutral, and think about sin and death as existential problems recognized by the preaching of the cross.⁴¹ To try to investigate the origins of sin and death would be purely speculative. Nevertheless, this solves very little and calls into question the entire orthodox Christian system. Furthermore, the acceptance of the presence of death and, therefore, the curse of the law as present from the beginning of creation places Forde perilously close the Gnostic heresy of the conflation of creation with the fall.⁴²

To summarize, Forde's interpretation of the law is problematic from the confessional Lutheran perspective on several levels. First, it seriously undermines theological realism by primarily characterizing the law as an existential experience of dread and not as God's objective immutable will, a tendency which greatly impairs one's ability to preach the second use of the law. Second, this tendency to define the law as an amorphous threat undermines the positive use of the law in the Christian's life. Though Forde's assessment of the law as a moral guide is not entirely negative, his existentializing tendency leaves some significant gaps. Third, Forde's interpretation implies a conflation of creation and the fall, thereby implicitly (though probably not intentionally) resurrecting a Gnostic heresy. Fourth, Forde's teaching undermines the teaching of Scripture and its interpretation by the Lutheran Confessions.

II. Forde on the Second Use of the Law

The second use of the law is foundational for a confessional Lutheran understanding of the interplay between law and gospel.⁴³ Forde's treatment of the second use of the law logically follows from his general

⁴⁰ Forde, *Theology is for Proclamation!*, 51.

⁴¹ Forde, *Theology is for Proclamation!*, 51.

⁴² See Urban Linwood, *A Short History of Christian Thought* (New York: Oxford University Press, 1995), 77-79.

⁴³ FC SD VI; Triglot 963: "The Law of God is useful. . . . Through it men are brought to a knowledge of their sin."

definition of the law and his concept of atonement.⁴⁴ He begins with the recognition that human beings exist under the law and the hidden God. Having God constantly impinge upon their reality, human beings cannot trust God because they recognize him as a mortal threat. In order to overcome this situation, God has sent Jesus into the world to forgive, thereby changing God's relation to the world from one of hiddenness and law to one of love and forgiveness. This forgiveness is not brought about by the fulfillment of the law or the propitiation of God's wrath. God as he is actualized in Jesus simply makes a unilateral decision to forgive without any fulfillment of the law. This action on God's part is completely disruptive of the previous human situation under the law. It is an eschatological event. If God had redeemed by fulfilling the law in Jesus, the new age of grace would not have properly disrupted the old age of law,⁴⁵ but would simply have been a continuation of it. Human beings prefer to be under the law because they believe that they can control God with their good works. Their response to being forgiven is to kill Jesus in order to maintain their sense of control. In doing this, they reveal their own sin of unbelief and thereby die in their recognition of sin. Jesus was resurrected by God and his practice of unilaterally forgiving was thereby vindicated. This practice of forgiveness continues in the life of the church. By being confronted with Jesus' act of forgiveness in word and sacrament, we recognize our sin and are killed. We are also resurrected by the same promise, and faith is created. Since faith fulfills the law and sanctifies us, God now looks at the person of faith as righteous and is "satisfied."⁴⁶

⁴⁴ For more on Forde's understanding of the second use of the law, see Gerhard O. Forde, *Where God Meets Man: Luther's Down-To-Earth Approach to the Gospel* (Minneapolis: Fortress Press, 1972), 32-44, as well as Gerhard O. Forde, "Caught in the Act: Reflections on the Work of Christ," in *A More Radical Gospel: Essays on Eschatology, Authority, Atonement, and Ecumenism*, ed. Gerhard O. Forde, Mark C. Mattes, and Steven D. Paulson (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2004), 85-97.

⁴⁵ This is one of the most troubling aspects of Forde's thought. Is there no continuity between the God of the law and the God of the gospel, or between the old and the new creations? David Scaer has helpfully demonstrated that God's new act of creation through the gospel necessarily incorporates his old act of creation, which finds expression in the sacraments. See David P. Scaer, "Sacraments as an Affirmation of Creation," *CTQ* 54 (1993): 241-264. The law for Scaer is incorporated into the gospel by God's act of fulfilling the law in Jesus. For Forde, this happens not in Jesus, but only subsequently in the believer.

⁴⁶ Forde's position should not be construed as a form of antinomianism. On the contrary, the law will harass the sinner until it is fulfilled in the existential experience of being convicted of sin and resurrected into a faith that will satisfy God by fulfilling the law. Again, Forde does not dispense with the necessity of the fulfillment of the law. He merely transfers it to human beings away from Christ. In other words, Christ's death is

As a result of his view of atonement, Forde significantly reshapes the practice of preaching law and gospel. A direct reassertion of the law by Christ would not disrupt the previous existential situation under the law,⁴⁷ but would rather prolong it. Nevertheless, if preaching is discontinuous with the law, we necessarily fall into a kind of antinomianism, something that Forde wishes to avoid. In fact, it cannot be emphasized enough that Forde rejects antinomianism, which he frequently refers to as "fake theology."⁴⁸ In his essay of the same title, "Fake Theology: Reflections on Antinomianism Past and Present," Forde insists that antinomianism does

a divine gesture which is intended to put human beings into compliance with the law. This creates three problems. First, it moves the focus away from Christ to the human act of faith, which is the real thing that saves from the law. Second, it is not biblical or confessional. Scripture teaches nothing of the kind. Forde is aware of this, but in his piece "The Work of Christ" in the Jenson-Braaten Dogmatics, he goes about criticizing what he sees as the biblical authors' false interpretation of the work of Christ; see Gerhard O. Forde, "The Work of Christ," in *Christian Dogmatics*, vol. 2, ed. Robert W. Jenson and Carl E. Braaten (Philadelphia: Fortress Press, 1984), 11-18. Third, it makes the gospel into a law. "If" we have faith, "then" the law will be satisfied and we will be free from wrath. This criticism is not overcome by saying that we are forgiven before we have faith. This means that passive righteousness is given to us, but not active. Active righteousness is apparently up to us—through the grace of God, of course. Forde's stance is perhaps due largely to the strong influence of existentialism and von Hofmann on his thought. For evidence of this, see James A. Nestingen, "Examining Sources," in *By Faith Alone: Essays on Justification in Honor of Gerhard O. Forde*, ed. Joseph A. Burgess and Marc Kolden (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2004), 11-12. Just as Forde interiorizes the law, he also interiorizes atonement. An objective law would be an abstraction, as would be an objective atonement. This is because it would be something beyond our experience—a *Ding an sich* (von Hofmann, following Kant and Schleiermacher). In the same way, the law still must actually be fulfilled, but if it were fulfilled by Christ it would not be an "actual event" for us, i.e., something within our experience. So, in order for it to be an "actual event," it must be interiorized by making faith the locus of its fulfillment.

⁴⁷ This is one of the more puzzling aspects of Forde's account of Jesus' ministry. Jesus clearly asserts on numerous occasions that he has come to "fulfill all righteousness" (Matt 3:15) and not "to destroy the Law and the Prophets . . . but to fulfill [them]" (Matt 5:17). As the Formula of Concord also notes, Jesus in his earthly ministry was active in preaching God's specific commandments and not merely in giving absolution. Furthermore, with the exception of the scene on the cross in the Gospel of Luke, in which Jesus forgives those who are executing him, his practice of absolution is not directed toward his opponents. Forde's suggestion that Jesus absolved everyone, including his opponents, does not fit the information we have from the Gospels.

⁴⁸ "Antinomianism is fake theology." Gerhard O. Forde, "Fake Theology: Reflections on Antinomianism Past and Present," in *The Preached God: Proclamation in Word and Sacrament*, ed. Mark C. Mattes and Steven D. Paulson (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2007), 215.

not take into account the full eschatological nature of the gospel: "The root cause of antinomianism is failure to apprehend the gospel in its full eschatological sense. . . . *Christ*, not theology, is the end of the law to *faith*, experienced as new life from death, the breaking in of the eschaton."⁴⁹ In other words, antinomianism's greatest flaw is that it assumes that by verbally eliminating the law it can simply get rid of it. The law, as we have seen, is the persistent experience of existential dread of those out of compliance with it. If the law remains unfulfilled within us, this experience of dread cannot be done away with by merely having someone tell us that everything is all right. Forde insists that the law's power only ends in its disruptive execution of judgment upon the sinner in death, followed by the sinner's being brought into compliance with it by the resurrection of faith. The problem for Forde nevertheless remains: how is the law to be proclaimed to the sinner in a manner that does not make the proclamation of the church a mere continuation of the old age of the law?

In order to solve this difficulty, Forde posits that the law should be proclaimed indirectly through the preaching of absolution. In his essay "Radical Lutheranism" (1987), Forde describes what he considers to be Paul's understanding of the law: "The law does not end sin, does not make new beings [that is, believing ones]; it only makes matters worse. Where the old continuity is maintained, sin does not end. . . . No matter how much religious pressure is applied, sin only grows."⁵⁰ There must be courage to unleash the gospel:

There is too much timidity, too much of a tendency to buffer the message to bring it under control. . . . Faith comes from hearing. Will the old persist? Will we understand ourselves to be continuously existing subjects called upon to exercise our evanescent modicum of free choice to carve out some sort of eternal destiny for ourselves?⁵¹

Forde makes a similar observation concerning the dual work of death and resurrection (law and gospel) through the word of absolution in his essay "Absolution: Systematic Consideration." In absolution,

the sinner is not just changed. Rather, the sinner must die to be made new. The paradigm is death and resurrection, not just changing the qualities of a continuously existing subject. Unconditional absolution

⁴⁹ Forde, "Fake Theology," 215 (emphasis original).

⁵⁰ Gerhard O. Forde, "Radical Lutheranism," in Gerhard O. Forde, Mark C. Mattes, and Steven D. Paulson, *A More Radical Gospel: Essays on Eschatology, Authority, Atonement, and Ecumenism* (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2004), 9.

⁵¹ Forde, "Radical Lutheranism," 15.

is indeed dangerous for the sinner. It means the death of the sinner one way or another. Either the sinner will try to appropriate it on his or her own conditions as a sop to the self, and go to that death which is eternal, or the unconditional absolution will itself put to death the old and raise up the new in faith to new life.⁵²

Forde's view of law and gospel parallels his view of atonement. Just as the divine gesture of the cross both executes the divine judgment of guilt and offers forgiveness, the preacher's word of absolution functions as both law and promise in that it both kills and resurrects. Since the word of absolution presupposes that one is a sinner, it accuses as law while also forgiving as gospel. Direct proclamation of divine commandments, on the other hand, would simply be a continuation of the old age.

It is therefore somewhat ironic that Forde's attempt at staving off antinomianism brings him uncomfortably close to the pastoral practice of the early Lutheran heretic Johann Agricola. To simplify a complex theological debate, Agricola came to the conclusion in the mid-1520s that since only faith can bring about works of love, and because true, heartfelt contrition is a work of love, only persons who have faith already can truly repent. Therefore, since faith comes from the gospel, only the preaching of the gospel can bring about true repentance.⁵³ For this reason, only the gospel and not the law should be preached.

In the mid-1520s, Philip Melancthon attacked this position by stating that it was necessary for the law to be preached to reveal sin.⁵⁴ By the 1530s, Luther himself also began to attack Agricola. He completely rejected Agricola's elimination of the preaching of the law and repentance. In *Against the Antinomians* (1539), one of his many disputations against Agricola and his followers, Luther sides with Melancthon and assigns the law and the gospel their proper offices. Luther first agrees that the word of the cross can function as either law or gospel depending on one's own existential relationship to it. It is, however, impossible to preach the gospel without the law in the form of divine commandment:

⁵² Gerhard O. Forde, "Absolution: Systematic Considerations," in *The Preached God: Proclamation in Word and Sacrament*, ed. Mark C. Mattes and Steven D. Paulson (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2007), 162.

⁵³ For a discussion of Agricola's early position, see Timothy J. Wengert, *Law and Gospel: Philip Melancthon's Debate with John Agricola of Eisleben over Poenitentia* (Grand Rapids: Baker Books, 1997), 84-89; F. Bente, *Historical Introductions to the Book of Concord* (St. Louis: Concordia Publishing House, 1965), 161-169; Murray, *Law, Life and the Living God*, 16-19.

⁵⁴ Wengert, *Law and Gospel*, 158-159.

To be sure, I did teach that sinners shall be stirred to repentance through the preaching or the contemplation of the passion of Christ, so that they might see the enormity of God's wrath over sin, and learn that there is no other remedy for this than the death of God's Son. . . . When Isaiah 53 [:8] declares that God has "stricken him for the transgressions of my people," tell me, my dear fellow, does this proclamation of Christ's suffering and of his being stricken for our sin imply that the law is cast away? What does this expression, "for the transgression of my people," mean? Does it not mean "because my people have sinned against my law and did not keep my law?" . . . The devil's purpose in this fanaticism is not to remove the law but to remove Christ, the fulfiller of the law.⁵⁵

What then should our preaching praxis be? Luther asserts that it must take the form of a full elucidation of the biblical message of law and gospel:

Preach that sinners must be roused to repentance not only by the sweet grace and suffering of Christ, by the message that he died for us, but also by the terrors of the law. For they are wrong in maintaining that one must follow only one method of preaching repentance, namely, to point to Christ's sufferings on our behalf, claiming as they do that Christendom might otherwise become confused and be at a loss to know which is the true and only way. No, one must preach in all sorts of ways—God's threats, his promises, his punishment, his help, and anything else—in order that we may be brought to repentance, that is, to a knowledge of sin and the law through the use of all the examples in the Scriptures. This is in accord with all the prophets and apostles and St. Paul, who writes in Romans 2 [:4]: "Do you not know that God's kindness is meant to lead you to repentance?"⁵⁶

If this sort of preaching does not take place, and the gospel alone is preached without the law (Agricola's teaching), then no one can truly know the gospel itself: "How can one know what sin is without the law and conscience? And how will we learn what Christ is, what he did for us, if we do not know what the law is that he fulfilled for us and what sin is, for which he made satisfaction?"⁵⁷ The Formula of Concord echoes Luther by condemning the heresy of Agricola and recommending the preaching of the law by way of a clear delineation of God's commandments: "The Spirit of Christ must not only comfort, but also through the office of the

⁵⁵ LW 47:110.

⁵⁶ LW 47:111–112.

⁵⁷ LW 47:113.

Law reprove the world of sin."⁵⁸ According to the Formula, the preaching of God's commandments to bring forth repentance has a firmly biblical basis in the practice of the prophets, Jesus, and Paul.

In fairness to Forde, his position is somewhat different from that of Agricola. In Forde's conception, God truly acts through the word of absolution as law in such a way that it "kills" the sinner, rather than only bringing about faith and, therefore, a loving desire to repent. This idea in and of itself is unobjectionable. According to both Luther and the Formula of Concord, anything that accuses is law and, therefore, the word of the gospel can function in this way also in that it causes the recognition of sin. In fact, Paul appears to suggest that this is precisely how he himself came to the recognition of his own inability to earn his salvation.⁵⁹ What is objectionable is that Forde appears to exclude completely the preaching of God's commandments, insisting that we must rely entirely on absolution to do the work of the law. It is thus Forde's belief that the preaching of the gospel should take over a function of the law that places him in close proximity to Agricola in actual practice.

Forde himself also appears to see this resemblance, at one point even going so far as to speak favorably of Agricola at the expense of Melancthon. According to Forde, Melancthon and his followers, past and present, "attempt to shore up a sagging enterprise [Luther's concept of the gospel] by various applications of law." Therefore:

When they discovered in the Saxon visitations the sorry state of affairs and feared that the gospel of justification by faith was just leading to laxity, they faced the question of what to do. . . . A great debate ensued, the "antinomian" controversies, which stretched over several decades and took various shapes. . . . Melancthon, and those who followed him, thought that rigorous proclamation of the law first was

⁵⁸ FC SD V; Triglott 955.

⁵⁹ "If, while we seek to be justified in Christ, it becomes evident that we ourselves are sinners, does that mean that Christ promotes sin?" (Gal 2:17). In other words, Paul recognized his own sin when he was converted to faith in Christ. If the Messiah had to die for the sins of Israel, then the law was not a plausible way of salvation and humanity must have no ability to fulfill it. The next verse, "If I rebuild what I destroyed, I prove that I was a law breaker," makes sense in light of this interpretation. If Paul had attempted to fulfill the law after he had come to recognize through Christ that he was a total sinner, then this attempt would simply have proved that the law did not work as a way of salvation, since Paul was already out of compliance with it. Since he equates sin with unbelief elsewhere (Rom 14:23), an attempt to fulfill the law would in fact make sin worse because it would simply draw the person away from belief in Christ to self-reliance on works. See also Phil 3:7-9.

the remedy. If folks are abusing the gospel and Christian freedom they must be brought to true and heartfelt contrition and repentance by preaching the law in all its rigor. If they were apprised of the seriousness and consequences of sin, they could be brought to repentance and proper living. . . . There were those (starting with Johann Agricola) who smelled a rat in this method. They held that you cannot really scare people into faith. Repentance that comes from fear of consequences is merely legalistic repentance based on the self's own desire to preserve itself. True evangelical repentance, Agricola held, comes from preaching the gospel. And because he insisted that the law should be banished from the church and the pulpit he earned the title Antinomian. . . . [Agricola taught that] from the pulpit we preach the gospel alone, and the gospel brings true and heartfelt evangelical repentance.⁶⁰

There are several difficulties with this passage. First, considering the fact that he does not entirely approve of Agricola's teaching, Forde seems to be overstating his position.⁶¹ Forde believes that since the law is that which accuses and threatens, it can be present in the preaching of absolution. Second, Forde fails to mention that Luther approved of Melancthon's position regarding the preaching of repentance to the extent that he wrote the introduction to Melancthon's articles of visitation, the recommendations of which Forde criticizes above.⁶² Third, and most problematic of all, Forde continues his practice of moving the law into the realm of a vague abstraction. If one lacks a specific enumeration of sins by way of the preaching of God's commandments, how is one to recognize in a concrete fashion one's status as a sinner? Forde's answer is that the sinner knows himself to be a sinner by way of implication through both the practice of absolution and the reaction of sinful humanity to Jesus finalized in its condemning him to the cross. This answer, however, is incomplete. Forde's account of the second use of the

⁶⁰ Gerhard O. Forde, "Lutheran Faith and American Freedom," in *The Preached God: Proclamation in Word and Sacrament*, ed. Mark C. Mattes and Steven D. Paulson (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2007), 202-203.

⁶¹ Elsewhere, Forde describes Agricola as an "overt Antinomian," something he is definitely against. Forde, "Fake Theology," 216-217. The difficulty with antinomianism, as Forde sees it, is that it tries to realize the end of the law by merely "shouting the law down." Merely verbal rejection of the law cannot end its tyranny. It cannot neutralize the law because the law persists in harassing sinners because of their lack of compliance with it. This happens whether they wish this to be the case or not. Rather it is necessary to become free from the threat of the law by faith's eschatological actualization of the law's fulfillment.

⁶² For Luther's introduction, see *LW* 40:265.

law appears to have a dual antecedent: his definition of the law and his rejection of the biblical and confessional doctrine of penal substitution.

First, Forde's rejection of the doctrine of *lex aeterna* in favor of the law as generalized existential anxiety makes it impossible for the law to be enumerated in a specific and concrete form. Consequently, the law can only come to a climax in the cross and the preaching of absolution as something equally vague, the impact of which can be felt in the reaction of sinful humanity to Jesus' preaching of absolution. Second, because of Forde's rejection of penal substitution, there is at best a tenuous connection between what Jesus does and the law as God's objective will set forth in divinely given commandments. As noted earlier, Luther believed that the law is preachable relative to the cross because the cross represents a fulfillment of the law. If this is not in fact the case, then it is not difficult to see why Forde refuses to allow for God's commandments to be preached relative to the cross. For Forde, the cross and the law have only a weak connection. Human beings bring about the cross because they are out of accord with the law. The law's judgment is existentially executed on humanity in the cross in that they recognize their sin. Nevertheless, Christ does not really contain within himself an objective fulfillment of the law. This makes the connection between the law and the cross merely indirect, thereby also necessitating an indirect relationship between the preaching of God's law and absolution.

Second, of the whole human race, only a very small number was actually present at the crucifixion. To say to a sinner that, hypothetically, he would also have killed Jesus may very well be true, but it does not solve the problem of how this sinful attitude is manifest in the sinner's own life. Even if the sinner would perhaps have joined the mob, how does this relate to the sinner's life here and now? Such a hypothetical scenario makes one's sin into an abstraction, something that Forde is trying to avoid and which he unintentionally achieves with his formulation. Similarly, by exercising a kind of purely civil righteousness, the sinner might very well not have wished Jesus dead. There are abundant examples of this in the Gospels: Pilate, Pilate's wife, the disciples, Nicodemus, and perhaps some other members of the Sanhedrin. Can these people be absolved from the judgment of the cross? Certainly not! But Forde's method leaves this at the very least a loose end. This problem would be solved by positing a *lex aeterna*, enumerated in specific divine commandments which Jesus fulfilled, as we find in the teaching of Scripture, Luther, and the Lutheran Confessions. By simply looking at God's commandments relative to the cross, the sinner could easily see what he had caused by not obeying them.

Through a specific enumeration of the commandments of the law and Christ's fulfillment of them, our role as sinners in Jesus' death becomes clear. We can with Luther see in the flesh of Jesus "Peter the denier; Paul the persecutor, blasphemer, and assaulter; David the adulterer; the sinner who ate the apple in Paradise; the thief on the cross. In short . . . the person of all men, the one who committed the sins of all men."⁶³

Forde's understanding of the second use of the law is therefore highly problematic. First, it presupposes a rejection of the biblical and confessional doctrine of substitutionary atonement. Second, it stands at odds with the practice of Jesus, the prophets, and the apostles, who make specific enumerations of the content of the law in order to accuse sinners. Third, it makes the law into a vague and abstract reality that does not expose human beings to the specific ways in which they have violated the law of God. Fourth, it stands at odds with the Lutheran Confessions' understanding of the law and how it is to be preached.

III. Forde on the First and Third Use of the Law

Having reviewed Forde's understanding of the general nature of the law and its second use, we now turn to Forde's understanding of the first and third uses. We will consider them together because, although Forde theoretically rejects the third use of the law, he does so only by subsuming it under the first use. This has not been an uncommon practice in twentieth-century Lutheran theology.⁶⁴ We shall then argue that this move creates some ambiguities regarding the role of the law in the life of the Christian.

Before we proceed with our discussion of Forde, it will be helpful to understand what the Formula of Concord means by the first and third uses

⁶³ LW 26:280.

⁶⁴ See, e.g., Gustaf Wingren, *Creation and Law*, trans. Ross McKenzie (Philadelphia: Muhlenberg Press, 1961); *Luther on Vocation*, trans. Carl C. Rasmussen (Philadelphia: Muhlenberg Press, 1961). Wingren speaks of the first use of the law as the arena of Christian vocation within the orders of creation. This is where the confusion lies. The first use of the law as the Formula of Concord defines it does not touch Christians but only restrains "wild, disobedient men" (FC SD, VI; Triglot 963). Wingren claims that because Christians are still sinners existing in creation, the first use of the law still restrains them and informs them of what works they should do externally. According to David Yeago, this interpretation of the first use of the law goes back to Adolf Harless, *Christliche Ethik* (Stuttgart: Verlag von Samuel Gottlieb Liesching, 1860). See David Yeago, "The Church as Polity? The Lutheran Context of Robert W. Jenson's Ecclesiology," in *Trinity, Time, and Church: A Response to the Theology of Robert W. Jenson*, ed. Colin Gunton (Grand Rapids: Wm. B. Eerdmans Pub. Co., 2000), 201-237.

of the law. The Formula of Concord, following Luther, teaches that the law is God's eternal and objective will, which is revealed to his creatures through both nature and the Scriptures. Because of the fall, this revelation becomes restraining and condemning. Nevertheless, it is no less a revelation of God's will. According to the sixth article of the Formula of Concord, the law possesses a first use: "external discipline and decency are maintained by it against wild, disobedient men."⁶⁵ The Formula here specifically defines the first use as applying to non-Christians, or at least to false ones, through coercive authorities (parents, teachers, police, military, etc.). It is not meant to instruct or discipline Christians, but non-believers who are "wild and disobedient."

The sixth article of the Formula also defines the third use of the law. This logically follows from the contention of both Scripture and the Lutheran Confessions that the law is God's eternal will for human beings. Although human beings are no longer defined and determined in their relationship with God (*coram deo*) by the condemnation of the law, the law nevertheless still represents God's will for human life: "For the law is a mirror in which the will of God, and what pleases Him, are exactly portrayed, and which should [therefore] be constantly held up to the believers and be diligently urged upon them without ceasing."⁶⁶ Such a formulation provokes the question: if faith sanctifies and renews Christians, will they not automatically perform the works of the law? Yes, to the extent that they are sanctified, they will perform the works of the law, but "believers are not renewed in this life perfectly or completely."⁶⁷ The justified sinner, therefore, is in need of the law to subdue his or her old nature. The Formula of Concord compares the old nature to "an intractable, refractory ass [that] is still a part of them [believers], which must be coerced to the obedience of Christ, not only by the teaching, admonition, force and threatening of the Law, but also oftentimes by the club of punishments and troubles, until the body of sin is entirely put off."⁶⁸ This use of the law is no more harmless than any other use of the law. It cannot rightly be characterized as a pleasant or non-threatening form of the law.

The second point made by the Formula is that justified sinners renewed by sanctification need the law as instruction so that they do not

⁶⁵ FC SD VI; Triglott 963.

⁶⁶ FC SD VI; Triglott 963.

⁶⁷ FC SD VI; Triglott 965.

⁶⁸ FC SD VI; Triglott 969.

engage in "self-chosen worship, without God's Word and command."⁶⁹ In other words, although the regenerate person desires to do good works, he does not automatically know which works are God-pleasing. This strikes a similar note to that of the Augustana with characterization of late medieval Roman Catholicism as encouraging "childish" and "needless"⁷⁰ works such as pilgrimages, praying the rosary, etc. God desires specific works, and engaging in works of devotion not commanded by God is useless. Because of this, the law cannot simply be understood as existing relative to sin. Rather, it is also a necessary part of living in creation this side of the eschaton. For human beings to rule in creation as God intends, they must have specific regulations to direct their business as the caretakers of the created order. The only thing that could abrogate this would be the passing away of the old creation at the eschaton. This fits very well with Luther's remarks in both the Genesis lectures and the Antinomian Disputations.

Therefore, when the Formula of Concord posits a third use of the law, it is not supplementing a weak connection between justification and sanctification by trying to inculcate obedience to the law.⁷¹ Neither does it attempt to claim that the law has suddenly become friendly and non-threatening.⁷² The confessors of the Formula thoroughly agree with the young Melancthon's "*lex semper accusat*." In reality, the Formula has attempted to take seriously the *simul* of Christian existence. On the one hand, the Christian lives in the old creation regulated by the law and the orders of creation and, therefore, needs practical instruction in God's will. On the other hand, Christians have already received Christ's alien righteousness and been sanctified by faith. They have been proleptically translated into heaven with its *lex vacua*. To describe this situation in Paul's terms, the Christian is sanctified and can say "in my inner being . . . I delight in God's law" (Rom 7:22). At the same time, the Christian does

⁶⁹ FC SD VI; Triglot 969.

⁷⁰ AC XX; Triglot 53.

⁷¹ This is a charge Forde himself makes: "Nervousness about the effectiveness of the gospel in the confessional generation of Protestantism resulted in the positing of an added function of the law: a 'third use' by the 'reborn Christian.' The gospel does make a difference, supposedly, but only such as to add to the function of the law." Forde, "Fake Theology," 220.

⁷² Forde also makes this charge. "[By the third use] the function [of the law] is really a watering down and blunting of the impact of the law. Instead of ordering and attacking, law is supposed to become a rather gentle innocuous 'guide.'" Forde, "Fake Theology," 220.

what he hates (Rom 7:23). For this reason, Christians must "discipline the flesh" (1 Cor 1:27).

Forde's understanding of the first and third uses of the law is rather different from that of the Formula. According to Forde, the third use cannot be accepted because the law can never be a "friendly guide for the reborn Christian . . . used by us like a friendly pet. . . . The idea of a third use assumes that the law story simply continues after grace."⁷³ The "law story" is rather ended by and subordinate to the "Jesus story."⁷⁴ Forde, however, is not critiquing the doctrine of the third use of the law as found in the Formula of Concord, which teaches that the law remains a threat and an accuser of the Christian throughout his entire life. Neither does the Formula describe the third use as a "pet" (to use Forde's term) that Christians can harmlessly use. It is rather compared to a club! On this level, Forde's critiques of the third use are irrelevant, at least when directed at the definition found in the Formula of Concord. In all fairness to Forde, however, certain interpretations of the third use of the law made since the Reformation have described it as non-threatening and even pleasant.⁷⁵ If Forde means to take aim at those formulations, then, in light of the confessional understanding of the law, he is certainly correct to do so.

From Forde's perspective, then, how is the Christian to know how to live in the world if there is no teaching of the third use of the law? Scott Murray has questioned whether or not Forde can really account for the *simul* of Christian existence.⁷⁶ Murray makes this judgment in light of his strict identification of the first use of the law (based on the definition of the Formula of Concord) with law as it is used to restrain non-Christians.⁷⁷ Forde on the other hand sees Christians as still being subject to the first use of the law insofar as they remain sinners.⁷⁸ He defines the first use as being

⁷³ Gerhard O. Forde, "Luther's Ethics," in *A More Radical Gospel: Essays on Eschatology, Authority, Atonement, and Ecumenism*, ed. Gerhard O. Forde, Mark C. Mattes, and Steven D. Paulson (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2004), 153.

⁷⁴ Forde, "Luther's Ethics," 154. This remark seem not to take into account the fact that Jesus fulfilled the law. The "law story" must necessarily be the "skeleton" of the gospel story. Otherwise we would be talking about a different God in both stories. The gospel story does, however, become dominant.

⁷⁵ See Scott Murray's description of *The Abiding Word* and its treatment of the third use of the law. Murray, *Law, Life and the Living God*, 64–67.

⁷⁶ Murray, *Law, Life and the Living God*, 174.

⁷⁷ Murray, *Law, Life and the Living God*, 13.

⁷⁸ Forde, "Luther's Ethics," 149. There is some wisdom in this. After all, sincere Christians (including the author of this article) still get speeding tickets—and have even

the "political use," but then states that perhaps it would be better to call it "the ethical use,"⁷⁹ thereby subsuming the third use under the first use. Mark Mattes observes that ultimately "Forde rejects a third use because he does not see this formulation as offering anything that is not already in the first use."⁸⁰ Echoing Gustaf Wingren, Forde states that faith sees the created order as its arena of ethical activity.⁸¹ The Christian is to be ethically guided by the rewards and punishments that the created realm offers in return for external adherence to the law: "So it [the first use of the law] works, most often, by threat, coercion, power, social persuasion and/or often just shame."⁸² These are phenomena that Christians are subject to as much as non-believers and, as a result, they become the basis of Christian ethical action in the world this side of the eschaton.⁸³ In other words, Forde does not reject the idea that the law can serve as a guide for human beings in the world; rather, because of the *simul* of Christian existence in the old and new ages, Forde is more comfortable placing this under the first use of the law.⁸⁴

Forde uses of the idea of eschatological disruptiveness as the chief paradigm for understanding law and gospel. For Forde, to the extent that the Christian remains in the flesh, he is subject to the first and second uses of the law, but as far as the new regenerate life goes, the law cannot inform the Christian of his non-existent duty. The new person has fulfilled the law by faith and, therefore, has no need of it. Because faith inspired by the event of the cross and the empty tomb fulfills the law, the law has become a *lex vacua* and reaches its eschatological fulfillment proleptically. If that is the case, then the law, having been fulfilled, cannot stand over against the Christian any longer. If one does not have faith and thereby fulfill the law,

been known to run red lights! It is nevertheless hard to imagine a sincere Christian robbing a bank or dealing narcotics.

⁷⁹ Forde, "Luther's Ethics," 152.

⁸⁰ Mark C. Mattes, "Re-Examining the Third Use of the Law," *CTQ* 69 (2005): 279-280.

⁸¹ The "arena of ethical activity [is for the Christian] disclosed as creation." Forde, "Luther's Ethics," 149.

⁸² Forde, "Luther's Ethics," 152.

⁸³ Forde, "Luther's Ethics," 153.

⁸⁴ "The civil use of law ushers us into a strange and exciting new world, the world of the neighbor. Talk of the end of the law is unfortunately often taken to imply that the door is suddenly open to a certain relaxation and permissiveness. To think so, however, would be a fatal mistake. What the end of the law opens the door to is the world of the neighbor, the world in which the self is turned outward toward the other." Forde, "Law and Sexual Behavior," *Lutheran Quarterly* 9 (1995): 7.

the law will simply persist forever until it is fulfilled.⁸⁵ This goes hand in hand with Forde's claim that the law lacks reality apart from sin. Nevertheless, to the extent that the new person needs the law as a specific "channel" (to use Scaer's term) to express his regeneration, he is already provided such a channel by the ethical structures present in his specific historical situation.

This conflation of vocation and law is another reason why Forde so strongly affirms Haikola's rejection of the concept of *lex aeterna*.⁸⁶ Law as positive directive is new every day and is merely what human beings discern regarding how best to fulfill their vocation in the kingdom of the world at any given moment. For this reason, the law cannot be eternal, since it is temporal and highly mutable.⁸⁷ Forde approvingly summarizes Haikola's interpretation of Luther: "God has not revealed his absolute will to man even in paradise [according to Luther]. The will of God is not made known in once-for-all fashion, least of all can man capture this will in the form of an eternal principle. . . . Man must learn to know God's will anew in each situation."⁸⁸ Forde even appears to suggest elsewhere that the divine will as law can be learned from the rewards and punishments that society gives the human person: "It [the law] can also work by persuasion, conditional promise, by a kind of seduction or bribery. You eat your spinach, you get your pudding. . . . [If] you do your work well, you get your bonus! So it [the law] works, politically, ethically."⁸⁹

This, however, creates ambiguity regarding the specific content of the law. Here the Augustana's prohibition of "childish" works is instructive. God wishes human beings to perform certain concrete acts of worship and obedience and excludes others. It is irrelevant how sincere the motivation underlying them may be. Part of the difficulty here is that Forde has little

⁸⁵ "A faith that knows of the true end of law in the double sense of goal and cessation will at the same time 'establish the law,' that is, allow the law to stand just as it is. In the light of the end one can gain some understanding of how God puts the law to its proper uses. Indeed, knowing the end, faith supports the law until the end is given. If the end is given and assured, there is no need to try to 'make the law of no effect.' That happens only when faith is lost. Without faith, that is, there is no hope. There is no end in sight. Law just goes on forever." Forde, "Law and Sexual Behavior," 4.

⁸⁶ Forde, *The Law-Gospel Debate*, 176–177. Forde praises Haikola for rejecting *lex aeterna* because it undermines the dynamic nature of law. Adam and Eve clearly had to obey a different law than Israel. Law is, therefore, historically mutable and only right reason's adaptation to its given historical situation.

⁸⁷ This is not necessarily a cogent argument. If the law is eternal, it can still manifest itself differently in different historical situations without in principle changing.

⁸⁸ Forde, *The Law-Gospel Debate*, 177.

⁸⁹ Forde, "Luther's Ethics," 152.

appreciation for the law as a concrete and specific set of commandments revealed by God in Scripture. He is rather more inclined toward the notion that God's will can be read from creation by human practical reason. For this reason the law as taught by Scripture cannot be final.

Although we must agree, following Psalm 19 and Romans 1-2, that human beings can to a certain extent read the Decalogue in the structure of creation in our fallen state, we are still in need of the law's clarification through a specific act of special revelation. Human beings this side of the eschaton must have God's commandments clarified and taught to them so that the sinful nature does not tempt them into self-chosen works, which are a particular problem in the church of our day, with the move toward both church political activism and the acceptance of homosexual practice.⁹⁰ In both cases, the church's full proclamation of the law and its work as a ministry of reconciliation (2 Cor 2-3) has been sidelined for other concerns.

In Forde's case, the danger of self-chosen works for the church is less of a concern, since he emphasizes the church's role as a ministry of forgiveness. Nevertheless, with regard to the kingdom of the left, Forde's ethics do not provide a clear criterion to determine what social norms reflect God's will for creation and which do not. It is of course correct to ask whether or not a particular commandment applies to our situation, as Luther notes.⁹¹ Nevertheless, human beings have a tendency to fit the law to their own desires, and not everything that our society wishes us to do is God-pleasing. Even if we emphasize with Forde the positive role of vocation in shaping ethics, we cannot accept every vocation assigned to us by our culture as salutary. Neither does vocation automatically contain within itself an outline of how that vocation might be fulfilled in a God-pleasing manner.

Overall, the main problem here appears to be ambiguity regarding the content and criterion of the law relative to the Christian life. Forde often agrees that the content of the law cannot be changed: "Under the guise of the concern for ethics, morality, and justice, law is watered down and blunted to accommodate our fancies."⁹² Nevertheless, on some issues he

⁹⁰ Forde is to be praised for having resisted the temptation of many in the ELCA to accept homosexual practice. See Forde, "Law and Sexual Behavior." Also see a positive assessment of his thought relative to other ELCA theologians in John T. Pless, "Using and Misusing Luther on Homosexuality," *Lutheran Forum* (Winter 2004): 24-30.

⁹¹ "It is not enough simply to look and see whether this is God's word, whether God has said it; rather we must look and see to whom it has been spoken, whether it fits us." *LW* 35:170.

⁹² Forde, "Fake Theology," 220-221.

seems to think that certain aspects of the law can be abrogated, while others not. This is nowhere more clear than when Forde insists that homosexual behavior cannot be accepted or promoted by the church because we cannot change the goals (procreation) and structures of the order of marriage, while nevertheless claiming that it is legitimate to change them with regard to divorce and the ordination of women:

Some in the church like to argue also that since the church has changed its mind on matters like divorce or ordination of women it seems consequent that it could change its stance on sexual behavior as well. But in questions of the civil use of law it is not legitimate to argue that one example of change justifies another. Each case has to be argued individually.⁹³

Since as Paul notes (1 Tim 2:11–15), and as Luther affirms,⁹⁴ Adam was the first minister and Eve the first church, why would female ordination be any less a violation of God's original order than homosexual practice? One might also ask this regarding divorce, which Jesus clearly prohibits in most cases due to the structure of the original creation (Matt 19:1–11; Mark 10:2–12; Luke 16:18).

Love of neighbor must, as Forde argues,⁹⁵ be the ultimate criterion determining how the law is applied (Matt 22:36–37). Nevertheless, we must have the divine word of guidance to tell us and discern for us how God intends for us to love our neighbor. Even in the prelapsarian state, Adam needed a word from God to know how to establish true worship and proper governance of Eden. This was true even though he was still uncorrupted by sin and therefore desired to love his neighbor in the purest possible way. Overall, Forde's definition of law as the experience of dread, threat, and demand tends to undermine the enumeration of specific commandments that Christians should obey. Much of this appears to be tied to Forde's opposition to law defined as the eternal content of the divine will, and his insistence that the law can only coexist with sin. Forde believes, of course, that Christians should work within the created order in order to promote the love of neighbor, but the specifics of that love are left less than satisfactorily defined.

⁹³ Forde, "Law and Sexual Behavior," 6.

⁹⁴ "Adam alone heard it [the command not to eat from the tree of the knowledge of good and evil], he later informed Eve of it. If they had not fallen into sin, Adam would have transmitted this single command later to their descendants." *LW* 1:105.

⁹⁵ "Thus the purpose of the civil use of law is to take care of God's creation and God's creatures. To be sure, law is not therefore to be imposed as an absolute which must be obeyed for its own sake." Forde, "Law and Sexual Behavior," 6.

IV. Conclusion

In light of our investigation, we have discovered that Gerhard Forde's interpretation of the Lutheran doctrine of the law is in many respects deficient. Its chief weakness is that it makes the actual content of the law overly vague. In critiquing Forde in this way, we do not wish to diminish his contributions to Lutheran theology in other areas. His works on both the theology of the cross⁹⁶ and Luther's dialectic of the hidden and revealed God⁹⁷ are tremendously insightful. Nevertheless, in regard to the law, his theology proves to be deficient in a manner that was not uncommon for Lutheran theology in the nineteenth or twentieth centuries. Of course, no theology or theologian is without his excesses, and for this reason we can at least appreciate that it was Forde's intention to magnify the power of the gospel that led him in this direction. What we find unfortunate is that this came at the expense of the law. We can in the end learn from Forde's mistakes and ever return anew in each generation to the firm foundation of the Scriptures as they are properly interpreted by the Lutheran Confessions.

⁹⁶ Gerhard O. Forde, *On Being a Theologian of the Cross: Reflections on Luther's Heidelberg Disputation, 1518* (Grand Rapids: Wm. B. Eerdmans Publishing Co., 1997).

⁹⁷ Gerhard O. Forde, *Captivation of the Will: Erasmus vs. Luther on Freedom and Bondage* (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2005).