

CONCORDIA THEOLOGICAL QUARTERLY



Volume 86:3–4

July/Oct 2022

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Suing Your Brother: 1 Corinthians 6:1–9 in the Lutheran Exegetical Tradition

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The Lutheran insistence that civil ordinances, including the courts, are divinely ordained and open to Christian use is enshrined in Augsburg Confession XVI, “Concerning Civic Affairs.” In a time when all protesters to Roman doctrine were bulked together as heretics and Luther and Lutherans were accused of holding to the destructive and immoral teachings of various sects,¹ the Lutherans were particularly concerned to condemn the radical opinions of the Anabaptists, who claimed that Christians should not take part in secular government or use secular courts. So the Augsburg Confession affirms that Christians are permitted “to hold civil office, to work in law courts, to decide matters by imperial and other existing laws, to impose just punishments, to wage just war, to serve as soldiers, to make legal contracts, to hold property, to take an oath when required by magistrates, to take a wife, to be given in marriage” (AC XVI 2).² The Apology likewise clarifies that while the gospel forbids private revenge or redress, “public redress, which is made through the office of the judge, is not forbidden but is commanded and is a work of God according to Paul in Romans 13” (Ap XVI 7).³ This approval of public redress through the courts, however, which is found consistently throughout the writings of Luther and Lutherans, does not constitute an unqualified approval of redress through the courts. Quite the contrary, a study of the Lutheran treatment of 1 Corinthians 6:1–9, spanning from Luther all the way through the period of Orthodoxy and into the age of Pietism, shows that the Lutheran exegetical tradition is united in cautioning Christians against suing anybody for material things and unanimous in condemning Christians bringing private suits against other Christians in secular courts. The Lutherans’ strong emphasis on the divinely ordered good of government and the courts should not overshadow their equally adamant insistence that God orders Christians to behave like Christians, to love reconciliation, to despise worldly riches,

¹ See John Eck’s *Four Hundred and Four Articles for the Imperial Diet at Augsburg*, distributed in Augsburg before the diet. See in particular article 386, “All those who contend in court for goods or for reputation are heathen. Luther.” Robert Kolb and James A. Nestingen, eds., *Sources and Contexts of the Book of Concord* (Minneapolis: Fortress, 2001), 79.

² Robert Kolb and Timothy J. Wengert, eds., *The Book of Concord: The Confessions of the Evangelical Lutheran Church*, trans. Charles Arand, et al. (Minneapolis: Fortress, 2000), 49.

³ Kolb and Wengert, *The Book of Concord*, 232. See also FC SD XII 17–21; FC Ep XII 12–15.

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and never to bring shame on the church by bringing trivial suits against fellow Christians.

It should be stressed that the Lutherans were never legalistic about this. The opposite is the case. They were evangelical. The gospel is a gospel of reconciliation, of forgiving faults. Christians bringing lawsuits against other Christians makes a mockery of this reconciliation, scandalizes the faith of those who trust in this reconciliation, and offers the world the opportunity to ridicule this reconciliation. Because the reconciliation they have with God through Christ's blood is their greatest treasure, Christians should value reconciliation with one another above any material benefit.

1 Corinthians 6:1–9 in Luther

Luther, in particular, refused to make the sin of suing a matter of civil or ecclesiastical law. He insisted on keeping it a theological and pastoral issue, one for pastors to preach on, not for judges or magistrates to rule on. So averse was he to being legalistic on this issue that in the same breath as he condemns the sin of suing another Christian, he also advises that this sin should be “tolerated,” lest the secular courts themselves, which are God's institution, be overturned.⁴ It must be remembered that in Luther's day, though the practice of Christian virtue was often a rarity,⁵ virtually everyone was considered a “Christian.” Thus, to make a secular law against Christians suing Christians would bring an end to virtually all civil suits, something society could not bear.⁶

But while civil law permitted one Christian to bring a private suit against another, Luther condemned the act in no uncertain terms. Luther's synopsis of 1 Corinthians 6 in his *Preface to the New Testament* is a good summation of his views: “In chapter 6 [St. Paul] rebukes contention and disputing in the courts, especially before heathen and unbelievers. He teaches them that they should settle

⁴ Martin Luther, *On Trade and Usury* (1524): vol. 45, p. 278, in *Luther's Works, American Edition*, vols. 1–30, ed. Jaroslav Pelikan (St. Louis: Concordia Publishing House, 1955–76); vols. 31–55, ed. Helmut Lehmann (Philadelphia/Minneapolis: Muhlenberg/Fortress, 1957–86); vols. 56–82, ed. Christopher Boyd Brown and Benjamin T. G. Mayes (St. Louis: Concordia Publishing House, 2009–), hereafter AE.

⁵ For the lack of Christian culture in Reformation times, see Rodney Stark, *The Triumph of Christianity: How the Jesus Movement Became the World's Largest Religion* (New York: Harper One, 2011), 255–260. See also Luther's preface to the Small Catechism in Kolb, *Book of Concord*, 347–348.

⁶ Luther, *Two Kinds of Righteousness* (1519), AE 31:305, “But yet to avoid a greater evil he tolerates this lesser one lest they should vindicate themselves and one should use force on the other.”

their cases among themselves, or suffer wrong.”⁷ Luther unfortunately never wrote a full commentary on 1 Corinthians, but he cites the sixth chapter frequently and leaves no room for misunderstanding. Already in 1518/1519, Luther wrote in his famous *Sermon on Two Kinds of Righteousness* that those who sue other Christians “will not enter the kingdom of heaven unless they have changed for the better by forsaking things that are merely lawful and pursuing those that are helpful.”⁸ In his tract *On Trade and Usury*, again citing 1 Corinthians 6, he calls Christians who sue others “weak and immature,” while warning that “such conduct is neither Christian nor praiseworthy but human and earthly, more of a hindrance to salvation than a help.”⁹ He expects Christian preachers to preach this. But he urges against disciplining such people and wholly cutting them off from the church, instead encouraging pastors to hope for their improvement.¹⁰

Luther, as do most of the Lutheran commentators who follow him, frequently specifies that he is speaking particularly of suing over money or possessions. So, in his *Admonition to Peace* of 1525, he points out that St. Paul condemns the Corinthians “for going to court *for the sake of property* rather than suffering injustice.”¹¹ Likewise, in his lecture on Psalm 70, he condemns the act of going to court “for the sake of food and provisions.”¹² And in his *Sermon on Two Kinds of Righteousness*, he insists that mature Christians should be “prepared to lose their other possessions also” rather than bring someone to court.¹³

In fact, Luther spoke much more against suing people *in general* than against Christians suing Christians specifically. Luther disapproved of any suing for material things. He considered it beneath a Christian. “Suing in the courts is condemned neither by pope nor emperor, but it is condemned by Christ and his teaching.”¹⁴ Jesus commands his disciples, “And if anyone would sue you and take your tunic, let him have your cloak as well” (Matt 5:40).¹⁵ From this passage and its context, Luther maintains that Christians should follow different rules in their

⁷ Luther, *Preface to the New Testament* (1522/1546), AE 35:382. This preface to the New Testament was first published in 1522 and then republished again with revisions in 1546. It therefore represents Luther’s mature views.

⁸ Luther, *Two Kinds of Righteousness* (1519), AE 31:305.

⁹ Luther, *On Trade and Usury* (1524), AE 45:278–279.

¹⁰ Luther, *On Trade and Usury* (1524), AE 45:278.

¹¹ Luther, *Admonition to Peace* (1525), AE 46:29, emphasis mine.

¹² Luther, *First Lectures on the Psalms* (1513–15), AE 10:385.

¹³ Luther, *Two Kinds of Righteousness* (1519), AE 31:306.

¹⁴ Luther, *On Trade and Usury* (1524), AE 45:277.

¹⁵ All Scripture quotations are from the ESV® Bible (The Holy Bible, English Standard Version®), copyright © 2001 by Crossway, a publishing ministry of Good News Publishers. Used by permission. All rights reserved.

private lives than what the laws of the secular state allow: “Indeed, our leader, Jesus Christ, says in Mathew 7 [5:44] that we should bless those who insult us, pray for our persecutors, love our enemies, and do good to those who do evil to us. These, dear friends, are our Christian laws.”¹⁶

Luther never changed his position on this point. There is no opposition between “young Luther” and “mature Luther” here. Sometime in the late 1520s or early 1530s, when he was taking over Bugenhagen’s duties at the city church in Wittenberg, Luther preached a series of sermons on the Sermon on the Mount.¹⁷ This is perhaps his most thorough treatment of a Christian’s obligation regarding the courts. He writes, “Now if someone asks whether a Christian may go to court or defend himself, *the answer is simply no*. A Christian is the kind of person who has nothing to do with this sort of secular existence and law.”¹⁸

Luther makes an important distinction, however. The Christian may not go to court on his own initiative; he may not go willingly, thinking he has something to gain from it. But if he holds a secular position, as magistrate, judge, or even citizen, he must do what the laws command him to do (provided such laws do not contradict God’s word). God’s word, Luther says, “has confirmed and commended” these offices, and so the Christian is in duty bound to live in them. And these offices require of him what he would not normally do in his private Christian life. Luther speaks of a Christian as “two persons” or as having “two offices,” which need to be properly distinguished.¹⁹ So in the example of a court, “it is proper for a judge to punish and execute, and yet he is forbidden to have any hatred or vindictiveness in his heart.”²⁰ As a Christian the judge wants to have mercy, forgive, and not harm anyone, but as a secular judge he is in duty bound to punish.

What about the Christian as citizen? Here we see the first glimpse in Luther of an exception for Christians bringing others to court, that of the private citizen defending himself or others against violence or fighting for his own or others’ self-preservation. As a Christian, he would simply take even this against his own person, but as a citizen he has the duty to appeal to the law and seek justice for himself and especially for others, so that society is not destroyed by evil men. And as a father or master, he has the duty to defend those under his authority: “Thus you are not

¹⁶ Luther, *Admonition to Peace* (1525), AE 46:29.

¹⁷ See AE 21:xvii–xxi for the date and circumstances of these sermons. Luther’s preface to this work, written in 1532, shows he wishes with this work to combat both the Roman Catholic canonists (whom he calls “asses”) and the Anabaptists. The former simply ignore Jesus’ words in Matthew 5. The latter read far too much into them and ban the courts completely. See Luther, *Sermon on the Mount* (1532), AE 21:4–5.

¹⁸ Luther, *Sermon on the Mount* (1532), AE 21:108, emphasis mine.

¹⁹ Luther, *Sermon on the Mount* (1532), AE 21:110.

²⁰ Luther, *Sermon on the Mount* (1532), AE 21:111.

forbidden to go to court and lodge a complaint against injustice or violence, just so long as you do not have a false heart, but one that remains as patient as it was before, one that is doing this only to maintain the right and to avoid the wrong, out of a genuine love for righteousness.”²¹

In order to show what the mindset of a Christian should be when lodging a complaint against someone, Luther points to the example of Joseph, who in Genesis 37:2 brings a report of his brothers’ ill conduct to his father. Luther maintains Joseph was not prompted by malicious intent, but brought the matter to the proper authority “because he did not like to see them acquiring a bad reputation.”²² That is, he did it for their own good, out of genuine love for them. This is a theme that recurs time and again in Luther and the Lutheran tradition, that a Christian may not go to court with any malice whatsoever, with any hate in his heart or greed for money or desire for vengeance.²³ For this reason, Luther speaks entirely in terms of defense of self or others when he allows for a Christian taking another to court. He compares a Christian going to court to a mother defending her children against wolves: “What kind of a crazy mother would it be who would refuse to defend and save her child from a dog or a wolf and who would say: ‘A Christian must not defend himself?’”²⁴ Again, he compares it to a master saving his sheep from wolves. “For [Paul] does not prohibit invoking justice or seeking the necessities of life, or else a master would not be allowed to tear the lamb away from the wolf.”²⁵

It should be pointed out here that Luther allows for Christians bringing suits in self-defense or for the defense of others while discussing suing *in general*. When he talks specifically about suing other Christians, he never talks about a single exception. He simply categorizes it as a sin. This is the pattern throughout the Lutheran tradition.

To return to Luther’s distinction between the secular person and the Christian person, or the secular office and the Christian office, it is clearly not a clean separation. Luther is simply trying to point out, albeit rather circuitously, the difference between public duty and private duty, “the secular and the divine realm,”²⁶ and so he still insists that a Christian, even in his secular office, keep “a

²¹ Luther, *Sermon on the Mount* (1532), AE 21:111; Luther insists already in his preface that it is right to protect oneself (p. 5).

²² Luther, *Sermon on the Mount* (1532), AE 21:112.

²³ See below, under “Mortal Sin.”

²⁴ Luther, *Sermon on the Mount* (1532), AE 21:110.

²⁵ StL ed. (22:1958), quoted in Paul E. Kretzmann, *Popular Commentary of the Bible: New Testament Vol. II* (St. Louis: Concordia Publishing House, 1924), 114.

²⁶ Luther, *Sermon on the Mount* (1532), AE 21:5.

Christian heart.” Thus the judge or soldier or lawyer do what they do in the secular realm, but still remain at heart Christians:

At the same time he keeps a Christian heart. He does not intend anyone any harm, and it grieves him that his neighbor must suffer grief. So he lives simultaneously as a Christian toward everyone, personally suffering all sorts of things in the world, and as a secular person, maintaining, using, and performing all the functions required by the law of his territory or city, by civil law, and by domestic law.²⁷

Luther goes on to clarify that a Christian in his private capacity should “leave the resistance of evil, the administration of justice, and punishment to the one who holds a position in the secular realm.” Meanwhile, Christians should “put up with all sorts of things and maintain a pure and friendly heart toward those who treat you unjustly or roughly.” He more than once points out that the Christian uses the courts only when “required” to do so, a distinction later Lutherans will also point out.²⁸

But when it comes to Christians bringing suits against fellow Christians, Luther simply does not approve. In treating 1 Corinthians 6 particularly, he maintains that with Christians “no one should be a complainant in his own case,” that the aggrieved party should rather “request and insist that his case not be brought to trial,” and let others fight for him, so that the affair is “conducted in a friendly, Christian, and brotherly spirit, with more regard to the sin than to the injury.” Such a procedure would require Christians to behave like Christians, to want reconciliation above vengeance or money or possessions. And so again Luther calls the act of suing another Christian instead of seeking reconciliation a sin.²⁹

Well known, finally, are Luther’s own personal attempts to bring feuding Christians to reconciliation with one another. In fact, he died doing exactly this. Traveling to Eisleben in late January of 1546, Luther spent the last weeks of his life helping to bring about reconciliation and agreement between the counts of Mansfeld, who were feuding over land rights and debt. He died the night after the final treaty was signed. This was a long and painful process—Luther, in ill health, was so exhausted that he could sit in on the negotiations only for an hour or two a day—and the result of reconciliation seemed impossible. But it was Luther’s preaching on reconciliation and giving up one’s own rights that helped to end the feud between Christian nobles (at least for a time). “Wherever reconciliation was at

²⁷ Luther, *Sermon on the Mount* (1532), AE 21:113.

²⁸ Luther, *Sermon on the Mount* (1532), AE 21:114. “Here he must necessarily do what he is told and what this outward life requires” (p. 109); he is “under obligation to a secular person and authority” (p. 110); “the person who has obligations toward other persons under secular law” (p. 111).

²⁹ Luther, *On Trade and Usury* (1524), AE 45:278.

stake, justice had to be set aside.”³⁰ This was no academic point for Luther. It was theology and therefore practical. Reconciliation is the heart of the gospel. Christians ought to seek it with one another, even at their own loss, since this is what their Lord has done for them.

There is one point on which Luther is remarkably silent. Perhaps because he is not specifically writing a commentary on 1 Corinthians 6, he does not stress the shame and offense suing a fellow Christian brings on the church (1 Cor 6:5, “I say this to your shame”). This will be a constant theme in later Lutheran writers. Luther described himself as a lumberjack, who paved the way for more precise and systematic articulation of the faith.³¹ We see this prove true in the Lutheran exegetical tradition following Luther. While we find in Luther talk of suing for various reasons—out of self-defense, because of necessity, and for the sake of reputation—these categories are not fleshed out as they would be later. Likewise, his treatment of the difference between public and private is less precise than we find in the tradition that follows him. With that said, the later tradition does not depart from Luther, but rather clarifies and adds to his arguments against suing a Christian brother. It is to Luther’s contemporaries and heirs that we now turn.

The Exegesis of 1 Corinthians 6:1–9 in the Lutheran Tradition

While Luther’s reading of 1 Corinthians 6 has to be gathered from various types of writings, from his commentaries on other books of the Bible, his sermons, his prefaces, his table talk, letters, and tracts on specific doctrinal topics, a much more orderly and direct assessment of the later Lutheran interpretation of 1 Corinthians 6 is possible due to the many commentaries on 1 Corinthians written by Lutherans in the sixteenth and seventeenth centuries. Since this tradition is harmonious both with Luther and with itself, this study will proceed topically in presenting the Lutheran position.

³⁰ Martin Brecht, *Martin Luther: The Preservation of the Church, 1532–1546*, trans. James L. Schaaf (Minneapolis: Fortress, 1993), 369–375; see p. 374 for the quotation from Brecht.

³¹ “I was born to take the field and fight with the hordes and the devil, and therefore my books are very stormy and warlike. I have to dig out the roots and trunks, cut down the thorns and hedges, and fill up the pools; I am the crude lumberjack who has to blaze a trail and prepare the way.” Quoted in Martin Brecht, *Martin Luther: Shaping and Defining the Reformation, 1521–1532*, trans. James L. Schaaf (Minneapolis: Fortress, 1990), 243; cf. Luther, “Preface to Philip Melancthon, *Exposition of Colossians*” (1529), AE 59:249–50.

Against the Anabaptists: Divine Institution of the Courts

Every Lutheran commentator on 1 Corinthians 6:1–9 is careful, usually at the very start, to point out that St. Paul is not condemning the courts *per se*, but Christians using the courts against one another. Philip Melanchthon (1497–1560), in fact, practically says nothing else in one of his commentaries, using these verses as an excuse to extol the divine institution of secular government. His citation of Romans 13 is typical of later Lutherans: “He is not condemning courts or any part of the courts, or legal disputes for that matter. For these political ordinances are good things, divinely ordained and approved, as is taught very clearly in Romans 13.”³² Melanchthon goes so far as to list the virtues a Christian can practice by making a proper use of the courts:

1. Reverence toward laws and magistrates, because he commits the judgment to them, backing off from his own wisdom.
2. Love of justice, because he is not seeking someone else’s stuff, but as it were, laying aside his own stuff and leaving it to the power of the judge and the laws, so that they may give it to whom they think best. A greedy soul does not do this.
3. Love of truth, because he allows his arguments (*rationes*) to be examined and judged.
4. Love of public peace, because he prefers his stuff to be given to another by a judge rather than that the public peace be disrupted.³³

As can be seen by these “virtues,” Melanchthon has quite the optimistic view of Christians’ reasons for going to court.³⁴ Regardless, he is adamant that the courts are godly institutions of themselves and that Christians may appeal to them.

Citing Romans 13, Friedrich Balduin (1575–1627), professor at Wittenberg, argues that even the governments of Turks and Papists are God’s institution and can be used by Christians when necessary.³⁵ Tilemann Heshusius (1527–1588), a Gnesio-Lutheran and prolific commentator, writes that the courts are not only allowable but necessary for restraining evil and keeping people from harming

³² Philip Melanchthon, *Brevis et utilis commentarius in priorem epistolam Pauli ad Corinthios, & in aliquot capita secundae* (Wittenberg: Johannes Crato, 1561), 10.

³³ Melanchthon, *Brevis et utilis commentarius*, 10–11.

³⁴ “These are the virtues of the saintly litigator.” Melanchthon, *Brevis et utilis commentarius*, 11.

³⁵ Friedrich Balduin, *Commentarius in omnes epistulas Pauli* (Frankfurt: Balthasar-Christophorus Wustius, 1691), 352. See also David Pareus, *In divinam ad Corinthios priorem S. Pauli Apostoli epistolam commentaries* (Geneva: Peter and Jacob Chouet, 1614), 211.

themselves and others.³⁶ The Lutherans also frequently cite Acts 25:10–11, where Paul himself appeals to the secular court of Caesar to judge between himself and the Jews.³⁷

Trivial Cases

In 1 Corinthians 6:2 and again in 6:3, St. Paul refers to the types of cases the Corinthians are bringing against one another. In verse 2, he calls them ἐλαχίστων, trivial or of very little importance, and then in verse 3 he calls them βιωτικά, bodily or having to do only with this life. The Lutherans are unanimous in seeing these two descriptions of the cases as complementary. They are trivial precisely because they have to do with this life only, with the body and its provision.³⁸ Christians will judge the world; they will judge angels (1 Cor 6:2–3)! Their mindset should not be worldly but heavenly; they who are found worthy to judge with Christ concerning righteousness and eternal life are certainly capable of coming to brotherly agreement on such base things as property and money. Aegidius Hunnius (1550–1603) gives an assessment typical of the Lutherans:

[Paul] calls these cases and controversies of the Corinthians “most trivial matters” (*res minimas*) first because of themselves they are not very important due to the baseness of their object, namely, things that will eventually pass away of their own accord; and second by comparison, because they cannot in any way be compared with the things that will come to be judged on the Last Day.³⁹

Friedrich Balduin sees that Paul has in mind the baseness of these suits over material things already in the first verse, “Dare any of you, having a matter against another,

³⁶ Tilemann Heshusius, *Commentarius in omnes D. Pauli epistulas, et Eam quae scripta est ad Hebraeos* (Frankfurt: Spiessius, 1606), 201, arguing on the basis of Romans 13 and Luke 12:14. Also, “Paul is not prohibiting or condemning civil offices,” 202.

³⁷ Balduin, *Commentarius*, 352; Aegidius Hunnius, *Thesaurus Apostolicus Complectens Commentarios in omnes Novi Testamenti Epistolas et Apocalypsin Iohannis* (Wittenberg: Gerdesius, 1705), 179.

³⁸ Sebastian Schmidt, *Commentarii in epistolas S. Pauli ad Romanos, Galatas and Colossenses. Una cum Paraphrasi Epistolae Prioris ad Corinthios* (Hamburg: Schiller, 1704), 837: “matters which pertain to the sustenance and life of this world.” Balduin, *Commentarius*, 351: “pertaining to the use of this life.” Hunnius, *Thesaurus*, 179; Christian Chemnitz, *Commentariolus in omnes epistolas D. Pauli* (Jena: Bauhofer, 1667), 244: “which are minor and pertain only to the things of earthly life and money.” Abraham Calov, *Biblia Novi Testamenti illustrata* (Dresden and Leipzig: Johann Christopher Zimmermann, 1719), 299: “which have to do with the use of this life.” Philipp Spener, *Philippi Iac. Speneri Divi Pauli Apostoli epistolae ad Romanos et Corinthios homiletica paraphrase illustratae* (Frankfurt am Main: Johann David Zunner, 1691), 337: “concerning temporal things.” Niels Hemmingsen, *Commentaria in omnes epistolas Apostolorum* (Frankfurt am Main: Corvinus, 1579), 180: “concerning things trivial and passing away.”

³⁹ Hunnius, *Thesaurus*, 179.

go to law before the unrighteous instead of the saints?” “We dare,” Balduin notes, “either difficult things or things not entirely lawful. Here Paul is noting not the difficulty, but the baseness of the matter.” In fact, Balduin says, Paul identifies these disagreements with the banal word *πράγμα*, “business” or “matter,” because all such cases over material things can be solved in another way than through court, at least among Christians.⁴⁰ Luther’s habit of condemning suits that had to do with money or possessions agrees perfectly with this later Lutheran emphasis.

Scandal to the Church

St. Paul repeatedly stresses the scandal that results from a Christian suing his fellow Christian. It is not that making an appeal to the courts is wrong *per se*. This cannot be true, since St. Paul himself appeals to the courts (Acts 25) and God himself has instituted secular governments to administer justice (Romans 13). Rather, as Hunnius puts it, St. Paul is condemning lawsuits *secundum quid*, that is, in specific circumstances. Those circumstances are, as St. Paul makes clear, when a Christian brings a suit against another Christian in secular courts. Hunnius is adamant:

This is the mind of the apostle: with what arrogance do you dare, you who are Christians in name and profession, to bring your private grievances which you have against others who are themselves Christians to secular judges, unbelievers, heathen, who have already previously taken any opportunity to denigrate the doctrine of the Gospel; and this you do not without considerable offense both to believers who are still weak and to the godless and unbelievers who use this occasion to mock you as men prone to litigating and fighting even about things that amount to nothing.⁴¹

We see here that the offense is twofold. First is the offense within the church itself, as Christians’ faith is scandalized in seeing fellow Christians behaving in public as if money and possessions mean more to them than the gospel of reconciliation. Second is the offense to the church from outside, from “the godless and unbelievers,” who use this as an occasion to label Christians as petty hypocrites. This double offense is consistently stressed in the Lutheran tradition. So Tilemann Heshusius writes: “It is shameful for Christians, who ought to be bound by a chain of love one to another, to bring litigations and suits against one another. This gives opportunity to the heathen to blaspheme the name of God and the church of Christ.”⁴² Note again that the offense is first internal, within the church, that Christian suing

⁴⁰ Balduin, *Commentarius*, 350. So also Calov, *Biblia Illustrata*, 299, who makes the same point and otherwise takes much of his commentary from Balduin.

⁴¹ Hunnius, *Thesaurus*, 179.

⁴² Heshusius, *Commentarius*, 201.

Christian contradicts the law of love by which Christians are bound to each other and thus gives offense to Christians in the church. This then gives rise to the second offense, the opportunity for the world to blaspheme Jesus. Niels Hemmingsen (1513–1600), a leading Danish Lutheran theologian and exegete, goes so far as to call their actions “insanity,” saying that Paul is accusing them of being out of their minds for exposing the gospel to ridicule before the world. “For men’s vices are assigned also to their profession,” that is, if men bearing the name Christian behave this way, the Christian confession is necessarily smeared, something no Christian could willingly and sanely bring about.⁴³ Christian Chemnitz (1615–1666) uses the strongest of words to speak of this shame: “[Christians] ought rather to suffer loss than to expose their religion to ridicule and allow it to be damaged.”⁴⁴

Some Lutheran commentators take the main verb in 1 Corinthians 6:4 as an imperative, so that it would read, “Therefore if you have disputes having to do with this life, set up those least esteemed in the church as judges!”⁴⁵ This rendering, followed also by the King James Version, has its merit. St. Paul uses the word for “least esteemed” (ἐξουθενημένους) also in 1 Corinthians 1:28 to describe the things “despised” (ἐξουθενήματα) in the world which God has chosen, a reference to Christians. Paul’s point would then be that the very least, the lowest of Christians, are better suited to judge matters between Christians than the heathen.⁴⁶ If the main verb in 1 Corinthians 6:4 is taken as indicative and expressing a question, as it was by most Lutherans and by all major modern translations, the verse says, “Therefore if you have disputes having to do with this life, do you set up those least esteemed in the church as judges?”⁴⁷ This translation has St. Paul calling the secular judges or heathen those “least esteemed in the church,” which ironically comes to the same basic sense as the alternative translation: Christians should settle their disputes amongst themselves, because the foolishness of the church puts to shame the wisdom of this world (1 Cor 1:27). In any case, St. Paul expects the Corinthian

⁴³ Hemmingsen, *Commentaria*, 179.

⁴⁴ Chemnitz, *Commentariolus*, 245. The word “expose to ridicule” is *prostituere* and could also be translated “to prostitute.”

⁴⁵ Those taking this position include Hemmingsen, *Commentaria*, 180; Hunnius, *Thesaurus*, 179; Spener, *Divi Pauli epistolae*, 338.

⁴⁶ Spener, *Divi Pauli epistolae*, 338–339, in particular argues strongly for this meaning: “There is no need to burden pastors or the especially capable in the congregation with settling secular or petty business like this, since they could otherwise preside over important and spiritual matters. Rather, others should be chosen, among the least.”

⁴⁷ Philip Melancthon, *Annotationes in epistolam Pauli ad Romanos unam, Et ad Corinthios duas* (Argentorati: Johanness Hervagius, 1523), 92, has a good summation of the two translations, but prefers taking the verb as an indicative. Those who take it in the indicative include Calov, *Biblia Illustrata*, 300; Balduin, *Commentarius*, 351; and Schmidt, *Commentarii*, 837. Chemnitz, *Commentariolus*, 244, simply gives both positions and lets the reader decide.

Christians to decide their disputes amongst themselves, since (1) Christians are of such character that they will judge better, and (2) the alternative brings loss and shame to the church. Regardless of the translation of 1 Corinthians 6:4, this is the entire thrust of 1 Corinthians 6:1–6. So Balduin, commenting on verse 3, writes,

Here he expresses what kind of people he understands the saints to be, namely, that they are practitioners of their own faith. They are the kind of people who will judge angels on the Last Day, when by their vote they will approve of Christ's judgment on the angels who have fallen and have been cast into hell. . . . How much less should the faithful be denied decision and judgment in secular things, that is, in things pertaining to the use of this life! Therefore what he had previously called ἐλάχιστα he now calls βιωτικά, in order to make light of these petty controversies, which could easily have been settled in private, so that there was no need to call on a Gentile judge in this matter.⁴⁸

Heshusius likewise points out that Christians are truly saints who are “enlightened by the Holy Spirit; they have the Word in view, which is a light to their feet; there is also a true and genuine zeal for righteousness, truth, and concord among the saints.”⁴⁹ With such judges and advisors at hand, it is unchristian and foolish for Christians to go to the secular courts for judgment against one another.

Mortal Sin

St. Paul ends his lecture against Christians suing Christians with the words, “Or do you not know that the unrighteous will not inherit the kingdom of God?” (1 Cor 6:9). On the basis of this passage, the Lutheran commentators consistently and emphatically taught that those who bring suits against other Christians will, if they do not repent, lose the faith and heaven. Here the Lutherans are simply articulating the clear words of 1 Corinthians 6:9 and Galatians 5:21, that the practice of unrighteousness—that is, consistent willful sinning—cannot stand together with faith. Luther makes the same point in the Schmalkald Articles, and Melancthon in the Apology of the Augsburg Confession (SA III 45; Ap IV 64, 109, 144). Heshusius sums up the Lutheran position well, insisting that Christians must desist from suing one another, “lest they fall from grace and lose the inheritance of eternal life. For manifest unrighteousness cannot stand together with faith. You should rather suffer the injury, cover it up, and commend vengeance to God. Indeed, this is what the Christian religion demands.”⁵⁰

⁴⁸ Balduin, *Commentarius*, 351.

⁴⁹ Heshusius, *Commentarius*, 201.

⁵⁰ Heshusius, *Commentarius*, 202.

It is not, in other words, simply the sins we are accustomed to think crass (adultery, homosexuality, orgies, drunkenness, etc.), but also sins that look respectable on the outside that can lead a Christian from the faith. Paul mentions the greedy in particular in 1 Corinthians 6:9–10 and those who act according to enmity, strife, fits of anger, rivalries, dissensions, and divisions in Galatians 5:20–21. The continued practice of such is utterly incompatible with faith in Christ's reconciliation. And the nature of a lawsuit is that it is an ongoing procedure, one that is not a onetime passionate sin, but a continual and deliberate decision, which can go on for months or years. Friedrich Balduin illustrates this point by expressing his disgust with lawyers' love for litigation:

Those lawyers and attorneys deserve just punishment who for their own profit make a flame out of a spark, and a raging fire from the flame, and encourage others not to give up something of their own right. What arises from this is that all court cases are filled with complaints, often of a trivial matter, nor does the litigation cease until each litigant shamefully runs out of money. According to the example of Paul, this most wicked behavior must be condemned incessantly and seriously by ministers of the word, as a very serious hindrance to Christian charity.⁵¹

We see here that, as with Luther, Balduin expects Christian preachers to warn and preach specifically against the sin of suing another Christian. Balduin goes on to say that those who bring lawsuits against Christians need to hear “the wrath of God” preached against them.⁵² Hunnius, while warning of “the peril of eternal damnation,” breaks out with this beautiful appeal, “Let us remember that we are brothers! Let us be horrified, then, at the idea of hurting those who are so closely joined and united with us!”⁵³ Sebastian Schmidt (1617–1696) paraphrases Paul with the exclamation, “I cannot but preach the curse of the Law to you, that those who do such things will not enter the Kingdom of God.”⁵⁴ Niels Hemmingsen writes, “Repent, lest you lose so great an inheritance by your own fault!”⁵⁵ Christian Chemnitz perhaps says it more plainly than any, “He who does this is committing a mortal sin, as he does his brothers wrong and causes them harm.”⁵⁶ In the same vein, Heshusius says that those who harm their fellow Christians in this way are harming

⁵¹ Balduin, *Commentarius*, 354.

⁵² Balduin, *Commentarius*, 351.

⁵³ Hunnius, *Thesaurus*, 181.

⁵⁴ Schmidt, *Commentarii*, 837.

⁵⁵ Hemmingsen, *Commentaria*, 181.

⁵⁶ Chemnitz, *Commentariolus*, 245; Calov, *Biblia Illustrata*, 301, argues that it is specifically because a brother brings harm to another brother that Paul transitions to talk of mortal sin.

Christ, “As the Son of God testifies, ‘Whatever either of good or of evil you do to one of the least of these, you have done to me.’”⁵⁷

This insistence on the seriousness of the sin is coupled with a description of how Christians are called to act. Instead of being obsessed with property and money, they should be obsessed with reconciliation. Instead of insisting on their right, they should be willing to give it up. Instead of being greedy, they should be generous. Instead of nursing hate, they should constantly forgive and love. Schmidt points out the contrast quite well:

It does not belong to Christians to have court cases (*lites*) and contentions, but to cultivate peace. No, more than this, it belongs to Christians much more to suffer injury and loss than to bring contentious and scandalous legal suits. Why do you not then suffer injury from a brother? Why do you not rather accept loss from him, rather than to cause scandal and bring him to court before unbelieving judges?⁵⁸

This focus on the Christian’s willingness to suffer wrong rather than bring a suit against a brother is commentary on St. Paul’s words in 1 Corinthians 6:7, “Why not rather suffer wrong? Why not rather be defrauded?” Hunnius warns that “the disease of litigating” should be so foreign to us “that we would prefer to suffer injury rather than inflict injury on another or to repay evil for evil or to insist on our right too strictly and in so doing disregard love for one another.”⁵⁹ Philipp Spener (1635–1705) correctly points out the underlying issue in this passage, that Christians should not care so much about earthly things.⁶⁰ In fact, says Hunnius, St. Paul is teaching the Corinthians not simply not to love the things of this world, but also to despise them, “The apostle, by making little of things that pertain to bodily needs (*victum*), teaches us also to condemn them, as he does in 1 Cor 7:[30–31]: ‘Let those who buy be as if they do not possess, and those who use the world as if they do not use it.’”⁶¹

⁵⁷ Heshusius, *Commentarius*, 202.

⁵⁸ Schmidt, *Commentarii*, 837.

⁵⁹ Hunnius, *Thesaurus*, 180.

⁶⁰ Spener, *Divi Pauli epistolae*, 340, “For this shows that you love temporal things too much and that the love which is required of you is not among you. For Christians should think little of temporal things, nor care too much whether they have them or not. Also, we should so love one another that when a controversy arises between me and a brother, whether something is mine or is his, and I think that I am rightly pursuing it and he thinks he is, nor is he willing to cede to my explanations, then this temporal thing ought to be esteemed less and my brother more, so that I would rather dismiss what I think is mine and pardon or forgive my brother than to descend into court against him on account of it.”

⁶¹ Hunnius, *Thesaurus*, 181.

The Dangers of Suing in General

That this is to be the mindset of the Christian gives the Lutheran commentators opportunity to discuss in what circumstances a Christian may sue anyone at all. While the Lutherans allow for suing non-Christians, they also include plenty of warnings concerning doing so. In his *Enchiridion*, Hemmingsen says it flatly, “An example of a good litigator is hard to find.”⁶² Hemmingsen calls it an “exceedingly obscure question” whether a Christian may sue anyone at all, for any reason. Citing Jesus’ command to “possess your souls in patience” (see Luke 21:19), Hemmingsen states: “Scripture often exhorts us to forgive as often as anyone sins against us, to conquer evil with good, etc. Also, that we not return evil for evil. From these passages it seems to follow that we may not sue anyone for an offense committed against us.”⁶³ Using Aristotelian terminology, Hemmingsen then goes on to insist that we must distinguish between “the thing itself” and “the accident.” The thing itself, to sue, to bring an accusation against someone, is clearly not wrong. Paul allows it. But what attaches to it is almost always wrong. To sue anyone risks danger, because of the vicious affections that accompany the action—lack of self-control, desire for vengeance, overboldness, and such: “If therefore a Christian wants to pursue his right without offending God, he ought especially to beware that he does not go to court with a desire in his soul for vengeance, or any corrupt movement of the soul, or anger, or any poison. The best moderator of this will be LOVE.”⁶⁴ Philip Melanchthon makes the same distinction: “A legal dispute is one thing, the hatred or greed in the litigator is quite another.”⁶⁵ The decision to sue, in other words, is not merely a legal decision, not merely a matter of pursuing one’s own right. You may very well be completely in the right legally, but if you bring the suit with any hatred in your heart, greed, anger, or desire for vengeance, then you are offending God and sinning against him.⁶⁶

Hunnius makes a similar and no less helpful distinction. He speaks of “two ways,” one of strictly pursuing your own right (*ius strictum*) and the other of equity (Greek: *ἐπιείκεια*). This is a distinction known even to the heathen, made by Cicero

⁶² Niels Hemmingsen, *Enchiridion Theologicum praecipua vera religionis capita breviter et simpliciter explicata continens* (Vögelin: Ernst, 1562), 364.

⁶³ Hemmingsen, *Enchiridion*, 363.

⁶⁴ Hemmingsen, *Enchiridion*, 364; cf. Calov, *Biblia Illustrata*, 302.

⁶⁵ Melanchthon, *Brevis et utilis commentarius*, 12.

⁶⁶ Hemmingsen, *Enchiridion*, 365, who warns that the private vindication forbidden to Christians can be exercised just as easily in the public courts as privately. “Either way, it is forbidden to Christians.”

and Roman jurists,⁶⁷ but especially applicable to Christians. The one way is to demand your right according to the law without compromise. The other is to seek reconciliation, attempt to settle things outside court, be willing to make some sort of compromise or agreement. Hunnius writes:

As there are two ways of either keeping what you have or of recuperating what you have lost, the one of strict right, the other of equity, where the conflicts are accustomed to be resolved before judges through amicable agreement, Paul thinks that this latter way is to be far (*longissimi*) preferred over the other. The reason is obvious, since the way of equity fits more with the rule of Christian charity commended to us in Matthew 7:12: "Whatever you wish men to do to you, so also you do to them."⁶⁸

We see again that the moral law, the rule of Christian charity, extends even to suing in the public courts. Christians are to love their neighbors as themselves. They are to do what they wish done to them. They may not strictly pursue their right, even if they are completely in the right, unless their opponent refuses absolutely to be reconciled and the matter is of such moment that it must be pursued:

When your opponent does not permit the way of equity and the matter is of significant importance, then it is allowable to use the other way, which is the way of the law (*iuris*), but only if the matter is so managed that it gives no offense to the Church, that there is no hatred involved, no desire for vengeance, and no unlawful seeking of another's goods.⁶⁹

Exceptions

This brings us to the matter of exceptions. John Brenz (1499–1570) warns that even speaking of exceptions is dangerous, because people love to make the exception the rule when it is in their own interest. They can and will easily cover up their anger, their thirst for vengeance, or their greed under legal guise "in any way possible." Lawyers love loopholes. Yet we must discuss exceptions anyway, Brenz says, because "pious doctrine must not be set aside because of its abuse by impious men."⁷⁰ As with Luther, exceptions are discussed in the Lutheran tradition when treating suing

⁶⁷ See, for example, Cicero, *Pro Oratore*, I.240, "speaking many things in favor of equity against strict justice" (*pro aequitate contra ius*).

⁶⁸ Hunnius, *Thesaurus*, 181.

⁶⁹ Hunnius, *Thesaurus*, 181.

⁷⁰ John Brenz, *Evangelion quod inscribitur secundum Joannem, centum quinquaginta quatuor homiliis explicatum* (Frankfurt am Main: Corvinus, 1569), 712; Luther voices the same concern. Cf. Luther, *Sermon on the Mount* (1532), AE 21:111, "The danger here is that the wicked world, along with our flesh and blood, always seeks its own advantage and yet puts on a lovely front to hide the scoundrel within."

in general. Here the Lutherans show how concerned they are to follow the rule of the gospel and to shun all legalism. There are cases in which Christian love requires a Christian to go to court. The Lutherans speak of this in terms of necessity. Christians go to court only when they are forced to. This happens in two basic ways. First, to defend oneself or others from financial ruin. Second, to defend the name of Christ.

Here, of course, the Lutherans are speaking of private cases. As Niels Hemmingsen points out, no one has any choice in a public case.⁷¹ You must obey the government when they call you to court in the matter of some public case. But in private cases, we always have a choice. And the choice must be morally and biblically defensible.

First, some Lutherans make a blanket exception for self-defense, that is, if you are the one being brought to court and not the one who lodged the complaint. So, for example, John Brenz reads Matthew 5:40 as prohibiting only private vengeance and returning evil for evil, but encourages Christians to make use of magistrates and laws that will defend the innocent: "It is licit to employ a legal defense."⁷² Niels Hemmingsen likewise makes a blanket exception if you are called to court and must defend yourself.⁷³ Philip Melanchthon perhaps gives the best explanation for this exception, "The one who sues does the wrong, and it must be answered in such a way that if anyone forces you, you go a mile with him [Matt 5:41]. . . . But you must speak your case, because the sword commands those called to court to speak."⁷⁴ Melanchthon's advice is to go, answer the summons, speak the truth simply, never lie, and not worry about the outcome.

Others, including Luther, urge Christians not even to go to court in self-defense if the matter is insignificant.⁷⁵ Rather, Christians are urged simply to take the loss, even from a non-Christian. But when taking the loss will financially ruin you or those for whom you provide, the Christian must protect himself and his family.⁷⁶ Thus the first exception proceeds out of love for the neighbor. The second exception proceeds out of love for God. We must as Christians love God and honor his name. If our name is suffering and God's word is suffering because of it, in cases of slander

⁷¹ Hemmingsen, *Enchiridion*, 363.

⁷² Brenz, *Evangelion*, 712.

⁷³ Hemmingsen, *Commentaria*, 179.

⁷⁴ Melanchthon, *Annotationes*, 91.

⁷⁵ Luther, *Sermon on the Mount* (1532), AE 21:114; Balduin, *Commentarius*, 350, "both the actor and the defendant."

⁷⁶ Heshusius, *Commentarius*, 202, speaking of defending your own people and property, insists, "You ought not to defraud your own because of your negligence or superstition."

and libel, then we must defend our name and therefore God's word, in court if necessary. Hunnius describes each exception well:

But if the injury cannot be borne without significant loss or our reputation is being dirtied, and hence the [pure] doctrine would be disgraced and God's name would suffer a bad reputation unless our reputation should be defended from the accusations of our detractors, then it is a good thing (*integrum*) to seek restitution of our reputation before the regular magistrate, or even restitution of wealth which we cannot give up without enormous detriment to those committed to our care. For he who does not provide for his own has denied the faith; he is worse than an unbeliever (1 Tim. 5:[8]).⁷⁷

Distinction between Suing a Christian and Suing in General

While the Lutherans articulate reasons Christians may sue others with good conscience, provided they do it in important matters and with a Christian heart, without anger or thirst for vengeance or greed for gain, they speak strictly when treating Christians suing Christians. It is simply shameful. It causes offense to the church. This is highlighted by the contrast made between suing Christians and suing others. For example, Friedrich Balduin poses the question, "Why does the Apostle Paul condemn the Corinthians' forensic actions before an unbelieving Magistrate, when he himself appeals to the tribunal of the Roman Caesar (Acts 25:10)?" The answer is revealing:

Here we must distinguish between the persons litigating. When each, both the actor and the defendant, is a Christian, then the Apostle Paul condemns it in this passage as a shameful thing if one brings the other to the tribunal of a secular magistrate, especially in a trivial matter, which could and ought to be resolved either publicly in the assembly of the believers or privately through friendly agreement, lest the name of Christians be blasphemed among the Gentiles. But when either of the litigants is an unbeliever, then nothing forbids someone from pursuing his right against him before an unbelieving judge. For in this case there is no opportunity for a friendly agreement or the judgment of fellow brothers. Such was the position of St. Paul, who was accused by the Jews concerning the Christian faith and sedition excited because of this name. He rightly appealed to Caesar, who though he was a Gentile was still the regular magistrate over the Jews.⁷⁸

Note that it is precisely because there is no opportunity to solve it as Christians that suing the heathen is permitted. But for Christians, reconciliation between brothers

⁷⁷ Hunnius, *Thesaurus*, 180.

⁷⁸ Balduin, *Commentarius*, 352.

is simply expected. In fact, Jesus commands it in Matthew 18:15–17, specifically saying that if such disputes cannot be dealt with privately they must be brought before the church. It is only after a brother refuses to listen to the church and so is counted as an unbeliever that going to a heathen court against him is proper.

Niels Hemmingsen likewise contrasts suing in general with suing among Christians: “Here Paul’s counsel must be followed and we must bear the injury rather than prosecute it with the accompanying mockery of the gospel and reproach of the brothers.” He then points to his *Enchiridion* for instruction on Christians suing in general.⁷⁹ Thus, as Hunnius argues at length, it is against suing Christians *in particular* that St. Paul warns, because it is “wholly a loss” (see 1 Cor 6:7) for the individual Christians and for the Christian church. It is an unnatural and torturous rupture of Christ’s body. “The souls of those who ought to be joined in Christ are dissociated.” There is injury caused on one side and impatience “unbefitting a Christian” on the other.⁸⁰ And it all ends up hurting souls and the church. Therefore, instead of suing, Christians must patiently seek reconciliation privately or within the public gathering of the church.

Finally, as Abraham Calov (1612–1686) helpfully points out, especially when dealing with brothers we must distinguish between “trivial and serious, verbal and real, those things which can be ignored while retaining a good conscience and reputation, and those which cannot.”⁸¹ In the former case, when dealing with “trivial” matters, Christians should simply ignore and forgive the offense of a brother instead of bringing it to arbitration. The same is the case when the offending brother is poor and cannot pay the damage. It is only when the offense of a brother is such that it cannot be borne without significant damage to our livelihood or reputation that we must deal with it. Of course, Calov stresses that these disputes be settled among the brothers.⁸² Thus even these significant disputes should be brought first to the church, and only if a brother refuses to listen to the church should they be brought to the secular court (Matt 18:15–17). In all such things, “Christian love dictates as moderator.”⁸³

Walther and Modern Lutheran Commentaries

Modern Lutheran commentaries on 1 Corinthians follow the same pattern as those of Reformation and post-Reformation Lutheran theologians. The text of

⁷⁹ Hemmingsen, *Commentaria*, 179.

⁸⁰ Hunnius, *Thesaurus*, 179.

⁸¹ Calov, *Biblia Illustrata*, 302.

⁸² Calov, *Biblia Illustrata*, 301.

⁸³ Calov, *Biblia Illustrata*, 302.

1 Corinthians 6:1–9 is clear, and it forbids Christians from litigating one against the other in secular courts.⁸⁴ At the same time, this text cannot be used to dismiss the validity and divine institution of the secular government.⁸⁵ In the most recent major Lutheran commentary on 1 Corinthians, Gregory Lockwood is particularly explicit in condemning any lawsuit brought by one Christian against another, regardless of what the grounds of that suit are: “Paul’s stricture against Christians going to law against one another is absolute.”⁸⁶ And again: “But it is never proper for a Christian or a church to take fellow Christians or church leaders to a secular court.”⁸⁷

These absolute statements need always to be supported by the scriptural reasons for the prohibition against suing. It cannot be ignored that St. Paul speaks of “trivial cases” and cases that “have to do with this life,” nor can it be overlooked that St. Paul stresses the shame and harm done to the church by Christians bringing suits against other Christians. The Lutherans consistently stress these two theological points. These, together with the Christian desire for reconciliation, must always be the theological basis for the condemnation of suing in the church, so that we do not devolve into a legalism that exalts rules above love. While the Lutherans never explicitly say a Christian may sue another Christian (in fact, as we have seen, some of them explicitly say that this is never permitted), neither do they bring up specific cases of casuistry in their commentaries, in particular, cases where a Christian might sue another Christian for no material reason but solely for the reputation of the church and in hope of reconciliation.

The example of C. F. W. Walther (1811–1887) is particularly relevant here. Johann Früchtenicht, a pastor in the Ohio Synod, had written a letter slandering Walther’s teaching and particularly his life, accusing him of gross sins. Walther attempted rapprochement, and the pastor refused. Walther sued for libel in the Indiana courts, which led to the pastor recanting everything he had written and spoken against Walther, making a public apology in the pages of *Der Lutheraner*, and seeking Christian reconciliation with him. The apology is explicit in confessing that Walther is a man “of great piety” and that the accusations made against him were false. Walther, in turn, printed his explanation for suing on the very same page of *Der Lutheraner*. In this explanation, he outlines the Lutheran position concisely in seven points, all with support from Scripture.

⁸⁴ Kretzmann, *Popular Commentary*, 113–114; R. C. H. Lenski, *The Interpretation of First and Second Corinthians* (Minneapolis: Augsburg, 1963), 242–243; Gregory J. Lockwood, *1 Corinthians*, Concordia Commentary (St. Louis: Concordia Publishing House, 2000), esp. 189–195.

⁸⁵ Kretzmann, *Popular Commentary*, 114; Lenski, *Interpretation*, 239; Lockwood, *1 Corinthians*, 192, 194.

⁸⁶ Lockwood, *1 Corinthians*, 190 n. 11.

⁸⁷ Lockwood, *1 Corinthians*, 195.

The first five points are basically a summary of what Christians may not use the courts to do. First, it is a gross sin to take private vengeance when insulted (Matt 5:43–48). Second, it is “thoroughly unchristian” to bring a believing brother and member of your own church to secular court instead of settling it within the church (Matt 18:17; 1 Cor 6:1–8). Third, it is wrong to bring one’s slanderer to court before trying to reconcile with him (Matt 5:25). Fourth, it is wrong for a Christian to instigate a process over a trivial loss that he has incurred and not simply rather to let the loss go (1 Cor 6:7). Fifth, it is shameful for a Christian or a minister of the word not to bear shame for the sake of Christ (1 Pet 4:14; Luke 6:22–23).

These are the very same points made by the Reformation and post-Reformation Lutherans. Walther focuses on reconciliation, on Christians settling things outside court, and he condemns taking people to court over material possessions, things St. Paul calls “trivial.” But he continues by making an exception in his sixth point:

Still there could be circumstances in which it is not only not unchristian but totally right, yes, a sacred obligation, not to ignore certain slanders perpetrated by one who is no brother and does not wish to be, but instead to seek help against the slanderer from the secular authority which is established by God to protect its citizens and subjects from unrest, so that “they may live a quiet and peaceful life in all godliness and reverence” (1 Tim. 2:1–2).⁸⁸

Two things should be noted here. First, Walther makes plain that the person in question is no brother, or at least refuses to act like one. That is, he refuses to reconcile. He does not want to act like a Christian to Walther. Second, the offense has nothing to do with money or material possessions.

In his seventh point, finally, Walther makes it clear it was simply necessary as a pastor and father to sue. A pastor is required to have a good reputation with those outside (1 Tim 3:7). A father cannot do his job if his reputation is destroyed and his children do not respect him. For the sake of the church, for the sake of the ministry, and for the sake of his children, Walther was required to sue if the man would not recant his public slander. Again, Walther insists there was no anger, no hate, no desire for vengeance, and definitely “not a cent” to be made by him. And the result of Walther’s case was his reputation restored, the church and her doctrine defended, and slanderers publicly repenting of their sin and seeking reconciliation.

Did Walther act rightly? The shame brought on the church and the scandal to the people caused by Früchtenicht’s slanders against Walther were public and needed to be addressed. Walther tried to address them in the church and the man refused. There could be no further shame to the church caused by Walther suing.

⁸⁸ *Der Lutheraner*, July 1884, 109.

Only good could come from it for the church, as, thank God, it did. It seems impossible that the Lutheran fathers would condemn Walther for suing his slanderer. Given their stress on condemning suits over material things and their insistence that Christians must defend the word of God and the reputation of the church, it is hard to believe the Lutherans would not also make an exception in this case. It is arguable, in fact, whether Walther or the Lutherans of the sixteenth and seventeenth centuries would even consider what he did an exception at all. He did not sue a Christian in his own church body who could be dealt with within the church. He did not sue a brother asking for reconciliation. He did not sue for trivial reasons (money or property). And his suit, settled out of court, brought honor, not shame, to the church, both by restoring Walther's and the synod's reputation and by bringing sinners to repentance and reconciliation.⁸⁹

Conclusion

Tertullian tells the story of pagans seeing the way Christians treated one another and saying, "See how they love one another!"⁹⁰ Jesus himself says on the night he was betrayed that men will know that we are his disciples if we have love for one another (John 13:35). The act of suing a Christian brother for the things of this world instead of patiently seeking reconciliation or eating the loss is in direct conflict with this great command of the Lord Jesus. St. Paul preaches against it in unmistakable and clear words. Lutherans have from the beginning warned and taught against it. And this is out of love of the gospel, a love that prizes forgiveness and brotherly affection in Christ far above the mammon of this world. Faith in the gospel produces works that flow from a heart captivated by the gospel, and there is hardly a more beautiful and Christian work than seeking reconciliation with other Christians in the name of Christ. "Behold, how good and pleasant it is when brothers dwell in unity!" (Ps 133:1).

⁸⁹ See esp. Calov, *Biblia Illustrata*, 302, "Christian love dictates as moderator." The same type of theological analysis and judgment should be used in other such cases which have nothing to do with money and have instead to do with the honor of the church. When Lockwood, *1 Corinthians*, 190 n. 11, writes, "Among the rationalizations [Paul] would reject is the claim that we may resort to the courts of the land in order to force the church to attend to its business," he is clearly referencing the Robert Preus case, which Preus brought to secular court with the sole purpose of allowing the church to conduct its own business within her own courts. The specificity of Lockwood's judgment here is unprecedented in Lutheran commentaries and does not allow for the examination of unique cases on theological and exegetical grounds.

⁹⁰ *Apologeticus* ch. 39, sect. 7.