

CONCORDIA THEOLOGICAL QUARTERLY



Volume 82:1-2

January/April 2018

Table of Contents

Is Law Intrinsic to God's Essence? David P. Scaer	3
Johann Gerhard, the Socinians, and Modern Rejections of Substitutionary Atonement Jack D. Kilcrease	19
Luther on Vocation and Baptism: A Correction to Charismatic and Situational Ways of Discerning God's Call Benjamin T. G. Mayes	45
Paradise Regained: Placing Nicholas Hopman's <i>Lex Aeterna</i> Back in Luther's Frame Nathan Rinne	65
The Theology of the Cross and the Lutheran Confessions Andrew J. Preus	83
The Catholic Paul: Allegory and Perspicuity in Irenaeus's Reading of Scripture James G. Bushur	105
God Is My Strength and My Song: History and Practice of Old Testament Canticles Andrew Gerike	127

Research Notes	139
Misquoting Gieschen	
Theological Observer	143
Billy Graham	
Sermon for Easter Tuesday	
Book Reviews	149
Books Received	159

Is Law Intrinsic to God's Essence?

David P. Scaer

Concern has been brewing in some Lutheran Church—Missouri Synod (LCMS) circles over antinomianism. Antinomianism is a term broad enough to embrace libertinism, the idea that Christians can do whatever they want. Antinomianism questions the function of the law in Christian life, a locus in dogmatics known as sanctification and discussed in the Formula of Concord, article VI, under the heading “The Third Use of the Law.” For the record, there is only one moral law with three functions, not three laws.¹ To say it another way, it is one law with three appearances, depending on the situation.² Those questioning the third use hold that the law is addressed to Christians as sinners but has no place in their life of faith. Law is seen as one huge negative, an overwhelming “No,” and like an autoimmune disorder, law eventually turns on itself to self-destruct; it does not belong to God's essence and is not eternal.

The New “Theology of the Cross” and the Third Use of the Law

Deniers of the law's third use have arrogated to themselves the well-known phrase “the theology of the cross,”³ which actually means that those who become Christians should expect to suffer with and for Christ. While this phrase may be part of the paradigm of the new definition of the law, its striking feature is that the law has no function for faith. Those not acquainted with this proposal (denying the law's

¹ Thus, the three uses of the law are uses of the *one moral law*. The Lutheran Confessions (Ap IV [II] 6, in Theodore G. Tappert, ed., *The Book of Concord* [Philadelphia: Fortress Press, 1959], 108, hereafter Tappert) and the Lutheran dogmatic tradition also recognize three kinds of *Old Testament law*: moral, ceremonial, and civil. See Luther's preface to the Old Testament (1523), vol. 445, pp. 243–244, in *Luther's Works, American Edition*, vols. 1–30, ed. Jaroslav Pelikan (St. Louis: Concordia Publishing House, 1955–1976); vols. 31–55, ed. Helmut Lehmann (Philadelphia/Minneapolis: Muhlenberg/Fortress, 1957–1986); vols. 56–82, ed. Christopher Boyd Brown and Benjamin T. G. Mayes (St. Louis: Concordia Publishing House, 2009–), hereafter AE.

² This suggestion is offered by Bernd Wannewetsch of Basel, Switzerland. See my discussion of this in *Law and Gospel and the Means of Grace*, ed. John R. Stephenson (St. Louis: The Luther Academy, 2008), 62–69.

³ See the classic book, Gerhard O. Forde, *On Being a Theologian of the Cross: Reflections on Luther's Heidelberg Disputation, 1518* (Grand Rapids: Eerdmans, 1997), 108–109: “The temptation is always to fall back on the law, either in its original sense or perhaps in some new sense like a ‘third use.’ But the theologian of the cross knows that there is no way back.”

David P. Scaer is the David P. Scaer Professor of Biblical and Systematic Theology and Chairman of the Department of Systematic Theology at Concordia Theological Seminary, Fort Wayne, Indiana.

third use under the moniker “theology of the cross”) may easily think that it is Luther’s theology. It is not, and it is this issue that we want to address. To avoid confusing this new proposal with what Luther taught, we will refer to the new proposal with quotation marks as the new “theology of the cross.”

Those who identify with the new “theology of the cross” also march under a banner inscribed with *lex semper accusat* (“the law always accuses”), words excised from the Apology.⁴ Law as accusation exhausts its function; for the new “theology of the cross,” function determines the Law’s essence. Put another way, it argues back from the effect to the cause. Since the law unveils sin, in its essence, it accuses.

While the LCMS accepts the entire Book of Concord, some Lutheran churches do not accept the Formula, where the law’s third use is defined. Thus, one might argue that its denial is of little consequence, that is, until one realizes that the law, with no function for the life of faith of believers, also has no role in understanding God, with the result that Christ’s sufferings and death cannot be seen as an atonement for sin and for the penalties that the law imposes. Ironically, the Apology, from which *lex semper accusat* is taken, provides this excellent description of what came to be called the third use. “We do not overthrow the law, Paul says (Rom. 3:31), but uphold it; for when we have received the Holy Spirit by faith, the keeping of the law necessarily follows, by which love, patience, chastity, and other fruits of the Spirit gradually increase.”⁵ Luther scholar Timothy J. Wengert goes as far as speaking of “the ‘notorious’ third use of the law” among Lutherans.⁶

Christ as the “End of the Law”

Steven Paulson’s denial of the third use relies on an idiosyncratic and false interpretation of Romans 10:4, “Christ is the end of the law”⁷ that is, that Christ terminates the law.⁸ Yet, Robert Jewett in the Hermenia commentary series of

⁴ Ap IV (III) 46, 164 (= Ap IV 167, 285, Tappert, 130, 150); XII (V) 88 (Tappert, 195); cf. Ap IV (III) 136 (= Ap IV 257, Tappert, 144); XII (V) 34 (Tappert, 186), where the law “only” accuses in certain situations.

⁵ Ap XX 15 (Tappert, 229).

⁶ For a lengthy argument against the third use, see Timothy J. Wengert, *Reading the Bible with Martin Luther* (Grand Rapids: Baker Academic, 2013), 37–39.

⁷ Unless otherwise indicated, Scripture quotations are from The Holy Bible, English Standard Version® (ESV), copyright © 2001 by Crossway, a publishing ministry of Good News Publishers. Used by permission. All rights reserved.

⁸ Steven D. Paulson and Nicholas Hopman, “Christ, the Hated God,” *Lutheran Quarterly* 30, no. 1 (2016): 1–27, here at 1, 6. Paulson places this interpretation in the introduction to his *Lutheran Theology* and claims it as Luther’s position. “For Luther the break-through of the gospel is that where Christ is preached as crucified for our sins and sake, the law comes to an end. That is the central point of Paul’s letter to the Romans (10:4): ‘Christ is the end of the law’ ” (Steven D. Paulson, *Lutheran Theology* [London: Bloomsbury T & T Clark, 2011], 4).

Fortress Press says that this passage “should not be understood in this context as cessation and termination” but “as ‘fulfillment’ or ‘goal,’ which means that the teleological perspective remains primary in this verse.”⁹ It “has a directional sense that explains how Christ is the goal of the law.”¹⁰ It does not refer to the law’s cessation as proposed by the late and still influential Luther Seminary professor Gerhard O. Forde and by his disciples Timothy Wengert, James Nestingen,¹¹ Steven Paulson, and, more recently, Nicholas Hopman.¹² In accusing sinners, the law has outlived its function and so, for faith, has no purpose.¹³ Paulson reinforces his untenable interpretation of Romans 10:4 as proof for the law’s extinction by advising readers to consult Paul before preaching on the Gospels, thus encouraging preachers to read the Gospels not on their own terms but through the lens of his misunderstanding of Paul’s words “the end of the law.”¹⁴ But is the law inherently accusatory, and need we consult Paul to understand Jesus?

The Third Use of the Eternal Law

In Eden, Adam’s moral nature corresponded to the law implanted in creation. It was without accusation. The command not to eat of the tree was not a legal prescription but a test of Adam’s faith and love for God. By disregarding God’s

⁹ Robert Jewett, *Romans: A Commentary*, Hermeneia, ed. Eldon Jay Epp (Minneapolis: Fortress Press, 2007), 619.

¹⁰ Jewett, *Romans*, 619–620.

¹¹ James Nestingen, “Speaking of the End to the Law,” in *The Necessary Distinction: A Continuing Conversation on Law and Gospel* (St. Louis: Concordia Publishing House, 2017), 169–184. Nestingen acknowledges Forde’s influence (175) and speaks of the termination of the law (170).

¹² Paulson and Hopman, “Christ, the Hated God,” 1–27; Nicholas Hopman, “The Heidelberg Disputation; April 26, 1518,” *Lutheran Quarterly* 31, no. 4 (2017): 436–444; Steven D. Paulson and Nicholas Hopman, “Atonement,” in *Dictionary of Luther and the Lutheran Traditions*, ed. Timothy J. Wengert, et al. (Grand Rapids: Baker Academic, 2017), 48–51.

¹³ Paulson, “Christ, the Hated God,” 1. Also cited in support of the view that law has come to end is John 1:17, “The law was given through Moses; grace and truth came through Jesus Christ.” At face value, it could be taken to contrast the law with the gospel, but William C. Weinrich, *John 1:1–7:1*, Concordia Commentary (St. Louis: Concordia Publishing House, 2015), 119, 187–191, points out that it contrasts the written revelation of Torah to the superior one in God’s incarnation in Jesus Christ. See also Rudolf Bultmann, *The Gospel of John: A Commentary*, trans. G. R. Beasley-Murray (Philadelphia: Westminster Press, 1971), 78–79. Simply put, John 1:17 is not a law and gospel passage. Ironically, Gerhard Forde, on whom Paulson is dependent, correctly uses the Greek word τέλος when he says, “The Word and sacraments are themselves the end (*telos*), the purpose of it all” (*Theology Is for Proclamation* [Minneapolis: Fortress Press, 1990], 35). The public Office of the Ministry is also described as the *telos* of all offices (181). In both places, Forde uses the word *telos* in the proper sense of purpose and completion and not as annihilation, as Paulson does.

¹⁴ Paulson, “Christ, the Hated God,” 9. “So true preaching is learned from Paul before one ventures into the lengthy gospels without being tempted with displacement, which is original sin’s repeated failure in telling the story of Jesus Christ.”

command, he gave birth to the law's second use; but in the next life, the law's third use will be its chief and only use. We will do the things God wants from our hearts, without fear of accusation. When the Formula states that the law reminds Christians that their good works are still impure (FC SD VI 20–21), the law's third use can soon be seen by some as the flip side of the second use. Piotr Malysz notes that "the third use of the Law is frequently little more than the second without a 'sting,' with salvation serving as a catalyst."¹⁵ In this fallen world, accusation is the law's chief function, but this does not translate into being its original, final, or now its only purpose. Law does not come to an end by self-destruction, as proposed by Forde and his disciples. As confessed in the Formula of Concord (FC SD II 50), *lex est aeterna* ("the law is eternal").

When the mantra of *lex semper accusat* is taken out of its context in the Apology, it takes on the status of a theological trump card, denying any function to the law but accusation. Seeing law as only accusation disqualifies it as a guide of Christian behavior. Hence, no third use of the law is left. Christians will never be perfect in this life, and the law reminds them that even their good works are impure (FC SD VI 21), but in Christ they are already free from the law's accusations. This is what *simul iustus et peccator* is all about. The law's third use is nothing other than the Ten Commandments christologically fulfilled, informed, and defined. Believers do Christ's works, which God through his Spirit works in them (Phil 2:13). Works of the law's third use are trinitarian through and through. Believers' good works are not only patterned after what Christ did, but are also what Christ does in them. Good works are those of the third use and have their origin in God's trinitarian existence, in which each divine person loves the other with a perfect love (John 5:20). This love manifests perfectly in God offering up Christ as a sacrifice to satisfy the law's demands and suffer its accusations (John 3:16). Trinitarian love that expresses itself in Christ's life and atoning death—his active and passive obedience—comes to further expression in believers who live and die for others (John 15:12–13, 17; 1 John 4:7). That's the third use in a nutshell.

Our response to the misunderstanding of *lex semper accusat* is this: law is intrinsic to God's essence and is reflected in everything he does. Law exists eternally in God and is the first or original revelation of God. Law is what God is, which is to say that goodness and love is what God is. The moral law is not an arbitrary morality or system of ethics imposed on sinners by a capricious deity. Since without the law, the gospel cannot be understood or believed, law's primacy within God is affirmed by the gospel and not abolished or negated. By Christ fulfilling the law, he

¹⁵ Piotr J. Malysz, "The Third Use of the Law in Light of Creation and the Fall," in *The Law in Holy Scripture*, ed. Charles A. Gieschen (St. Louis: Concordia Publishing House, 2004), 215.

does not terminate it, as proposed by the new “theology of the cross,” but affirms it. Law and gospel are both perfect revelations of God but in different ways. Law is what God is eternally in himself and gospel is his gracious response to our disregard of who and what God is. Jesus summed up the law in the commands to love God and the neighbor (Matt 22:37–39). This love originates in the trinitarian relationship in which each divine person loves the other with a perfect love, out of which relationship emerges the command to love the neighbor (John 17:26; 1 John 4:7–21). Love of the neighbor is descriptive of the God who shows his love to us as his neighbors. By creating us and then by rescuing us from our sin, he loved us with an undeserved love. Before asking us to love him and our neighbors, God fulfills his own command to love. Luther’s explanation of the first commandment—that we should fear, love, and trust in him above all things—is a call to faith and assumes faith.¹⁶ Each of the Ten Commandments is addressed not to unbelievers but to believers who, in spite of the constant danger of falling into sin, are to live their lives in doing the good works that Christ did. By each of the last nine commandments, which Luther begins explaining by saying, “We should fear and love God,” faith is assumed and becomes the source of the good works required of believers. These are the works of the law’s third use.

Systematizing theology into separate *loci* can lead to thinking that one doctrine can be separated from another, thus resulting in disconnected abstract truths. Such a situation then allows the law’s third use to be detached from the doctrines of Christ and God, as done by the new “theologians of the cross.” The Scriptures are not written in this atomistic way, but each doctrine is presented in, with, and under all the others. What Jesus taught was an extension of who he was and what he did. For example, Christ’s blood offered to the Father as a sacrifice is the same blood given in the Sacrament (Matt 26:28). To take this one step further, the sacrificial character of Christ’s death comes to expression in Christians living and dying for others, as Jesus proposed to James and John (Matt 20:26–28). That is the third use of the law. Christ’s humiliation—not using his deity for his own benefit—reaches out into the lives of believers, who are to regard others as superior to themselves (Phil 2:1–11). By sacrificing himself to the Father, Christ assumes the law’s accusations to himself and transforms the law’s second use into the third use, which is nothing other than the extension of his life (Christology) into the lives of believers. The Samaritan in Luke’s parable is a description first of Christ and then of believers (Luke 10:30–37). Martyrdom is the perfect expression of the law’s third

¹⁶ See also the Large Catechism: “The purpose of this commandment, therefore, is to require true faith and confidence in God” (LC I 4; Tappert, 365).

use. “Greater love has no one than this, that someone lay down his life for his friends” (John 15:13).

The Eternal Law and the Atonement

“Soft antinomianism,” a recently coined term associated with the new “theology of the cross,” comes across as benign, but any denial of the third use, small or catastrophic, is symptomatic of a structural flaw in how God, Christ, and the atonement are understood and corrupts the entire theological enterprise. Foundational for this theological restructuring is the denial of the *lex aeterna*. Since for Forde, Paulson, and Nestingen, law is defined by its accusatory function and does not belong to God’s essence, it is not eternal and will pass away.¹⁷ Still left to be answered is where or with whom the law originated. In “The Problem of Freedom Today and the Third Use of the Law,” Stephen Hultgren explains how J. C. K. von Hofmann (1810–1877) answers this question in his *Heilsgeschichte* theology. Hofmann articulated essential elements appearing one century later in the new “theology of the cross,” such as understanding Christ’s death as an expression of God’s love for the world and not as propitiation.¹⁸ For Hofmann,

The Law is an interim measure . . . of God’s overall plan to realize his love for humanity. In a certain sense, the Law is only a consequence of humanity’s fall into sin and of God’s wrath. God’s wrath is not directed at human failure objectively to live up to God’s standard as revealed in the Law. Rather, His wrath was due to the fact the humanity has turned away from him.¹⁹

For Hofmann, as for Forde and the new “theologians of the cross” after him, law is God’s response to humanity’s breaking union with him. Since law is not intrinsic to God’s essence, Christ’s death is no longer seen as a sacrifice for offenses against the law.²⁰ In Hofmann’s scheme (adopted by Forde), atonement no longer takes place between the Father and the Son but between God and believers when they hear God’s word of forgiveness in the preaching. Forde calls this “a reversal in direction,” so that “atonement occurs when God succeeds in getting

¹⁷ Paulson, *Lutheran Theology*, 224. “The law remains eternally, but it is not an eternal law in the sense of ruling or making any demands of Christians—nor is it the very mind of God itself.” In this explanation of the Greek word *τέλος*, Nestingen understands fulfillment of the law as termination (“Speaking of the End to the Law,” 170).

¹⁸ Stephen Hultgren, “The Problem of Freedom Today and the Third Use of the Law,” in *The Necessary Distinction*, 197–199.

¹⁹ Hultgren, “The Problem of Freedom Today and the Third Use of the Law,” 199.

²⁰ Gerhard O. Forde, “The Work of Christ,” in *Christian Dogmatics*, vol. 2, ed. Robert Jenson and Carl Braaten (Philadelphia: Fortress Press, 1984), 47–49; Hultgren, “The Problem of Freedom Today and the Third Use of the Law,” 199.

through to us who live under wrath and law.”²¹ What Forde confidently labels “Luther’s Theology of the Cross” is not actually a doctrine of the atonement but a malformed theory of justification posing as a doctrine of atonement.²² Inherent in Hofmann’s redefinition of atonement is a particular form of dispensationalism—the belief, still popular among some Evangelicals, that God works differently in different periods of time (called “dispensations”). For Hofmann, law has a function only until the gospel comes. In the new “theology of the cross,” when faith is created, the law has outlived its purpose.

The inclusion of the law’s third use in Formula of Concord VI is regarded as a Calvinist intrusion into Lutheran theology, which was first introduced by Melancthon in 1534. Not explained is how Melancthon provided the battle cry *lex semper accusat* in the Apology in 1531 and then only three years later was considered responsible for introducing the third use of the law into Lutheran theology.²³ Arguments advancing the new “theology of the cross” are just as likely to reference Luther as they do the Scriptures, perhaps even more so. It presents itself at least as a culturally Lutheran Reformation theology. During the Reformation quinquennial, the new “theology of the cross” garnered additional support; it is claimed to represent what Luther actually believed.²⁴

Although the new “theology of the cross” cannot be equated with Gustaf Aulén’s *Christus Victor* theory,²⁵ which was popular in the last century, it has taken over its terms in describing Christ’s death as a conflict with demonic forces. Yet, there is an important difference: for the new “theology of the cross,” the conflict is not a cosmic, interstellar one, as it was for the Gnostics and Manicheans, but an internal existential conflict that Christians experience. In letting themselves be justified by God, believers are freed from having to justify themselves.²⁶ Forde understands law not as *lex aeterna* but as “a generalized existential dread expe-

²¹ Forde, “The Work of Christ,” in *Christian Dogmatics* 2:47.

²² Forde’s restructuring of the doctrine of atonement into a malformed doctrine of justification has been adopted by Wengert, Nestingen, Paulson, and Hopman and is promoted in *Lutheran Quarterly* and now in the *Concordia Journal*. See Nestingen, “Speaking of the End to the Law,” 175; Joel P. Meyer, “Justification as the Ground and Goal of the Christian Life in Luther’s Catechisms,” *Concordia Journal* 43, no. 4 (2017): 43–57.

²³ Wengert, *Reading the Bible with Martin Luther*, 38.

²⁴ Paulson makes this clear in his introduction to *Lutheran Theology*, 4. (See note 8, above.)

²⁵ Gustaf Aulén, *Christus Victor: An Historical Study of the Three Main Types of the Idea of Atonement* (New York: Macmillan, 1969).

²⁶ Forde, “The Work of Christ,” in *Christian Dogmatics* 2:36–41. Paulson follows Forde in seeing the atonement existentially as taking place within the believer and not as a cosmic battle, which he describes as Manichaeism (Steven Paulson, “A Royal Ass,” in *The Necessary Distinction*, 270–272). See also Forde, *Theology Is for Proclamation*, 131–133. In that theology, atonement affects a change in us, not in God.

rienced by human beings in the old, evil age.”²⁷ According to his scheme, he cannot define the gospel as a fulfillment of the law, since this would make the gospel subservient to the law. This view, which is unacceptable in his sight, is found in Lutheran Orthodoxy, in which the doctrine of the law was essential for its doctrine of Christ’s substitutionary atonement. Justice and mercy cannot be given equal standing in God. This is reason enough for Forde to reject the Lutheran Orthodox view of the atonement, which requires that God’s justice and mercy be balanced into one act.²⁸

Existentialism and the New “Theology of the Cross”

The new “theology of the cross” is a theology of justification and neoorthodoxy is a theology of revelation. In spite of their differences, one can hardly fail to recognize similarities. Both focus on the oral word, in other words, preaching as a present reality that is not grounded on past events. Historical critique of the biblical reports does not play a prominent part. Both proposals are based on existentialism.²⁹ The title of Forde’s book *The Preached God: Proclamation in Word and Sacrament* speaks volumes.

The *extra nos* element that is so essential to the Lutheran orthodox doctrine of reconciliation and justification—that these take place outside of us—is neglected or explicitly denied by the new “theology of the cross.” Reconciliation and justification are placed instead in the preached word. Objectivity is found in the word or the promise and not in any act or apart from the faith created by the word. In this scheme, there is no place for what is called “objective justification” in Lutheran dogmatics—that, in raising Jesus from the dead, God forgave the sins of the entire world. Justification in the new “theology of the cross” is no more than a subjective, existential experience taking place in a person when he responds to the gospel or the promise. Word or proclamation is the ultimate reality behind or under which there is no external substructure either in history or in God. Absolution is the ultimate form of the word addressed to the believer. Absolution is even defined by Nestingen as the atonement: “[Christ] enters the conscience through the absolution, through the proclaimed Word and the administered Sacrament to effect

²⁷ Jack D. Kilcrease, “Gerhard Forde’s Doctrine of the Law: A Confessional Lutheran Critique,” *Concordia Theological Quarterly* 75, nos. 1–2 (2011): 153. See also Scott Murray, *Law, Life, and the Living God: The Third Use of the Law in Modern American Lutheranism* (St. Louis: Concordia Publishing House, 2001), 128.

²⁸ Forde, “The Work of Christ,” in *Christian Dogmatics* 2:25. “Christ suffers the punishment due us under divine wrath. Punishment and satisfaction are more less equated.”

²⁹ Forde, *Theology Is for Proclamation*, 35. “The concrete moment of proclamation is the doing of the mighty act of God in the living present. It is not a recital of past acts, but the doing of the act itself now.”

the forgiveness of sin. This is the true substitutionary atonement, happening here and now.”³⁰ There is good reason to challenge Nestingen’s claim that this is Luther’s view.³¹

In a dictionary entry coauthored with Hopman, Paulson denies that the atonement is Christ offering himself to God,³² saying, “Therefore righteousness does not win the victory over sin in Christ’s obedient death on the cross by making a payment for sin to the law (as in the [Lutheran] orthodox system). Instead, righteousness defeats sin in Christ’s resurrection.”³³ Paulson’s view is at odds with Romans 4:25: “[Jesus] was put to death for our trespasses and raised for our justification.”³⁴ Here, justification is a result of the atonement and not a substitute for it. Paulson also sets forth his denial of the atonement in his *Lutheran Theology*³⁵ and in *The Necessary Distinction*.³⁶ Again, in the new “theology of the cross,” atonement is no longer seen as God sacrificing Christ so that he can be righteous in forgiving sinners.³⁷ This position is seen by Paulson as a defect in Lutheran orthodoxy. For him, law is alien to God’s essence, that is, alien to who he is and hence not eternal. Thus, there is no necessity for Christ—or, for that matter, anyone else—to appease God’s wrath. In coming to terms with why Christ died, placating divine wrath is taken off the table. Removed from the essence of God is the moral component of law. Atonement is no longer a struggle within God in which his love satisfies his avenging justice so that he can justify the sinner, but it is replaced by a struggle that the Christian experiences within himself. This internal struggle is passed off as the atonement. Consider what Paulson says: “Until the law is satisfied—that is, until the sinner dies—there simply will be no atonement and reconciliation with God.”³⁸ Atonement now “is Christ who gives himself to his opponents in the form of a simple

³⁰ Nestingen, “Speaking of the End to the Law,” 174.

³¹ Marc Lienhard, *Luther: Witness to Jesus Christ*, trans. Edwin H. Robertson (Minneapolis: Augsburg, 1986), 280–286. See also 381, “There, Luther describes Christ, who is delivered up to the wrath of the Father, bearing the punishment deserved by sinful humanity and reconciling God and humankind.”

³² Paulson and Hopman, “Atonement,” 48–51.

³³ Paulson and Hopman, “Atonement,” 51. See also Forde, “The Work of Christ,” in *Christian Dogmatics* 2:25.

³⁴ My translation.

³⁵ Paulson’s *Lutheran Theology* is listed by *Logia* as one of the twenty-five best books in the last twenty-five years (John T. Pless, “Twenty-Five Titles in Twenty-Fives Years,” *Logia* 26, no. 1 [2018]: 9).

³⁶ Paulson, “A Royal Ass,” 265–284. Cf. Nestingen, “Speaking of the End to the Law,” 169–184.

³⁷ Paulson and Hopman, “Atonement,” 51: “Atonement is not a legal transaction between the Father and the Son. Instead, the Father, Son and Holy Spirit (who preaches and believes the good news) work together outside the law in mercy.”

³⁸ Paulson and Hopman, “Atonement,” 51.

promise.”³⁹ The weight of God’s action is switched from the atonement that Christ offered

at Golgotha to the moment of faith that believes the word. This position is at odds with that of the LCMS’s premier theologian Francis Pieper, who wrote that “the objective reconciliation or objective justification [is] of the whole world.”⁴⁰ Unless this is preached, faith cannot be created. But the new “theology of the cross” places both the atonement and reconciliation in the moment of faith, and together they define justification.

In setting forth their doctrine of atonement, Forde and Paulson make use of Luther’s “happy exchange” language, in which Christ and the believer each take the place of the other. As we share in his blessedness, he shares in our misery. But they give a different twist to Luther’s “happy exchange” description of the atonement. According to them, Christ shares in our misery, but does not take our place under God’s wrath. If this were the case, so it is argued, law would become superior to God. According to Forde and Paulson, this cannot be allowed, because law is not eternal and does not belong to who God is. Christ shares in our sin, not by imputation but by becoming one with us.

Digression: Objective Justification

Not long after the LCMS was formed, it had to address the denial of objective or universal justification first with the Ohio Synod and then with the Norwegian Evangelical Lutheran Synod, both forerunners of the ALC and now the ELCA. In both cases, fellowship was disrupted. Rather than seeing justification first as an act of God in forgiving the world of sin in Christ’s resurrection (objective justification), it was seen as the personal experience that took place only when a person heard and believed the gospel (subjective justification). Faith was made a cause of justification. Justification was to be understood as subjectively happening in the faith of the believer and not objectively in God forgiving the world in Christ. Denial of objective justification surfaced again in 1965 at Concordia Theological Seminary and was resolved when it was rejected by the faculty in the 1980s after the seminary moved to Fort Wayne. This denial of objective justification in the LCMS did not deny the vicarious satisfaction, as is now done in the new “theology of the cross”; however, both positions placed the deciding moment in faith and not in what God accomplished in Jesus.

³⁹ Paulson, *Lutheran Theology*, 5.

⁴⁰ Francis Pieper, *Christian Dogmatics*, 3 vols. (St. Louis: Concordia Publishing House, 1950–1953), 2:402.

**Ramifications of Denying Objective Justification
in the New "Theology of the Cross"**

Paulson defines Christ's atonement as his identifying with sinners. By placing himself under the law's accusations, Christ comes to see himself as a sinner and even the original sinner.⁴¹ This identification of Christ with sinners is not substitutionary or vicarious in the sense that by placing himself under God's wrath over human misconduct, he satisfies it. This Paulson rejects as the "legal scheme" that he finds basic for the Anselmic theory of atonement, which he rejects. Of this, he says, "Theories of atonement developed as a means of making the cross of Christ fit into this legal scheme. It is true that Christ pays debts, suffers punishment and pays ransom to the old lords of this world, but not to the legal scheme rule."⁴²

In support of his rejection of Christ's death as a substitutionary satisfaction, Paulson references Luther's explanation in the Small Catechism of the creed's second article, which states that Christ has redeemed the sinner not with gold or silver but with his holy and precious blood and his innocent suffering and death. Rather than taking this as an opportunity to affirm the Anselmic view of the atonement, which Luther intended, Paulson holds that the believer, not God, receives Christ's atoning action. "It is faith that receives this blood (not the Father in heaven, or the law, or the devil), thus reversing and bringing to a halt all sacrifice that proceeds from sinner to God."⁴³ All that is needed is "a simple promise: I forgive you."⁴⁴ What Paulson describes as atonement is at one level a falsely formulated doctrine of justification, but it is better designated as a doctrine of sanctification. Without belief in objective justification, subjective justification simply becomes another way of speaking of sanctification because it takes place within the believer. Pieper, on the other hand, places the atoning moment in Christ and not faith.

The reconciliation of the world was not accomplished, either in whole or in part, by the Savior's guaranty that his disciples would lead a life "united with God," but solely and entirely by the Savior's own fulfillment of the divine Law. The Savior Himself paid the entire debt, "mathematically" and "juridically" computed, and in His resurrection received God's receipt for it; and this receipt was made out to mankind. Christ, who was given into death for our sins, was raised again for our justification (Rom. 4:25).⁴⁵

⁴¹ Paulson, *Lutheran Theology*, 104–105.

⁴² Paulson, *Lutheran Theology*, 91.

⁴³ Paulson, *Lutheran Theology*, 93.

⁴⁴ Paulson, *Lutheran Theology*, 5.

⁴⁵ Pieper, *Christian Dogmatics* 2:365.

In classical Lutheran theology, as presented by Pieper, Christ suffers not for his sin, but for the guilt of the sin of all. Paulson sees it otherwise. Christ “came to believe that his Father was not pleased with him, thus multiplying sin in himself just like any other original sinner who does not trust a promise from God.”⁴⁶ So, for Paulson, Christ regarded himself as a sinner. His plea in Gethsemane to remove the cup is seen as his confession of his own sin and his cry of dereliction as a statement of unbelief.

Then finally in the words of the cross, “My God, my God . . .” he made the public confession of a sinner, “why have you forsaken me?” (Mark 15:35 NRS). Confessing made it so, and thus Christ committed his own, personal sin—not only an actual sin, but the original sin. He felt God’s wrath and took that experience as something truer than God’s own word of promise to him (“This is My son, with whom I am well pleased”). He looked upon himself on the cross and believed in his own unbelief.⁴⁷

To his own sin, Christ added the sins of the entire world. Sin is seen as unbelief in not accepting the gospel or the promise.⁴⁸ In assessing his situation of being crucified, Christ let his mind-set be determined more by the misery of his death by crucifixion and less by his self-awareness that having done God’s will, he was God’s Son.

This bizarre and totally unacceptable interpretation cannot go unanswered. Jesus’ plea to God in the moment of his greatest desperation was the most profound expression of faith ever spoken. True faith is not seen in the hour of health and prosperity but in the moment when the believer is overwhelmed by death. Jesus’ enemies got it right: “He trusts in God; let God deliver him” (Matt 27:43). This God did by raising him from the dead; and so his faith that he was God’s Son was confirmed (Acts 13:33).

Paulson’s view that atonement takes place in the faith of the believer resembles Osiander’s view that justification is only a subjective experience. He denies objective justification and holds only to subjective justification, which is, as explained above, only sanctification. Nevertheless, Paulson distances himself first from what he calls the ontological view of Osiander, that “sinners become righteous in themselves,” and then from the Lutheran orthodox view that sinners “can be

⁴⁶ Paulson, *Lutheran Theology*, 105.

⁴⁷ Paulson, *Lutheran Theology*, 105.

⁴⁸ This view was proposed by Forde, *Theology Is for Proclamation*, 124, and now also by Joel P. Meyer in the *Concordia Journal*: “Our root sin is not to make bad choices according to a standard of right and wrong, good or bad. Our fundamental sin is that we do not expect good things from God” (Meyer, “Justification as the Ground and Goal of the Christian Life in Luther’s Catechisms,” 46).

declared righteous, forensically as in a court of law.”⁴⁹ His rejection of forensic justification raises concerns. Pieper enumerates six objections to forensic justification⁵⁰ and then adds this telling condemnation: “Those who deny the juridical character of reconciliation and of its appropriation are thus engaged, consciously or unconsciously, in the evil work of destroying the entire Christian doctrine, as it is revealed in Holy Scripture.”⁵¹ By juridical, Pieper expressly means *actus forensis*. Paulson will have none of this.

For Paulson, justification happens in the present moment and so is properly described as existential. For him, justification “is faith in Christ in the form of a promise made by Christ, and conveyed to you by a preacher.” And “Christ is present in faith, but in a hidden way, that is by means of a simple word. Christ is heard, not seen; even when the disciples had him in plain sight.”⁵² Here we have to ask if Paulson is proposing that the disciples’ witness to the resurrected Jesus was more a matter of hearing than seeing.⁵³

Again we come back to the major flaw of the new “theology of the cross”: that by redefinition, the atonement is denied. This follows from denying that law belongs to God’s essence. Without the inner compulsion of fulfilling his own law, God simply forgives the sinner. To this, Pieper provides a more than adequate response: “Luther states that it is paganism (the faith ‘of the Turks and Jews’) to imagine that God is gracious to men ‘without cost’—without the Vicarious Satisfaction.”⁵⁴ In the new “theology of the cross,” God forgives simply because he is God, without the necessity of propitiation. What Pieper wrote more than a century ago of the Socinians (Unitarians) is prophetically applicable to the new “theology of the cross”: “Men have asserted that God can forgive sins by His almighty power and therefore satisfaction to be rendered by Christ is superfluous.”⁵⁵

⁴⁹ Paulson, *Lutheran Theology*, 124.

⁵⁰ Pieper, *Christian Dogmatics* 2:351–355.

⁵¹ Pieper, *Christian Dogmatics* 2:355.

⁵² Paulson, *Lutheran Theology*, 126. On this thought, he converges with Oswald Bayer, though one is not dependent on the other. See Trygve Wyller, *Glaube und autonome Welt: Diskussion eines Grundproblems der neueren systematischen Theologie mit Blick auf Dietrich Bonhoeffer, Oswald Bayer und K. E. Løgstrup* (Berlin and New York: Walter de Gruyter, 1998), 90–145, esp. 142.

⁵³ Paulson’s right of center position in the ELCA has been reason enough to provide for him an audience in the LCMS. He has contributed to *Logia*, been published by the Luther Academy, and contributed to Concordia Publishing House’s recently published *The Necessary Distinction*, where he sets forth his view that the law is not eternal. Cf. Paulson, “A Royal Ass,” 265–284, here at 271; Steven D. Paulson, “The *Simul* and the Two Kingdoms,” *Logia* 24, no. 4 (2016): 17–26.

⁵⁴ Pieper, *Christian Dogmatics* 2:347. See also C. F. W. Walther, *Law and Gospel*, trans. Christian C. Tiews (St. Louis: Concordia Publishing House, 2010), 196. “[God] has laid the burden of our sins upon Him and given Him up to be crucified for our sins.”

⁵⁵ Pieper, *Christian Dogmatics* 2:351.

The Rise of the New “Theology of the Cross” and Responses to It

Forde began proposing his “theology of the cross” at least by 1969,⁵⁶ when the LCMS had begun to recognize the devastating effects of higher critical methods and the accompanying neoorthodoxy at its St. Louis seminary. In his locus on Christology in the Braaten-Jenson *Christian Dogmatics* in 1984, Forde further developed his views.⁵⁷ After his death in 2005, his essays continued to be published.⁵⁸

Scott R. Murray may have been among the first in the LCMS to see the fundamental flaws in Forde’s theology in his 1998 doctoral dissertation, published in 2002 as *Law, Life, and the Living God: The Third Use of the Law in American Lutheranism*.⁵⁹ In 2009, Jack D. Kilcrease presented a polemical tour de force against Forde’s denial of the atonement in his doctoral dissertation.⁶⁰ In 2011, he took on Forde’s doctrine of the law in a *Concordia Theological Quarterly* (CTQ) article.⁶¹ And he also addressed Forde’s theology in a lecture at the symposia series of Concordia Theological Seminary—Fort Wayne in 2011, which was published in CTQ in 2012.⁶² Without specific reference to Forde, but with him in mind, Kilcrease evaluated historical understandings of the death of Jesus in *The Self-Donation of God* in 2013, arguing against Forde that for Lutherans, Christ’s death was a propitiation.⁶³ In 2018, he extended his critique of Forde in *The Work of Christ: Revisionist Doctrine and the Confessional Lutheran Response*.⁶⁴

Another response to a theology along Forde’s lines comes from Nathan Rinne who takes issue with Nicholas Hopman’s interpretation of Luther. In his article “Luther’s *Antinomian Disputations* and *lex aeterna*,” Hopman proposed that Luther did not believe the law was eternal.⁶⁵ Yet as Rinne shows, what presents itself as scholarly Luther research may not be so.

⁵⁶ Gerhard Forde, *The Law-Gospel Debate: An Interpretation of Its Historical Development* (Minneapolis: Augsburg, 1969).

⁵⁷ Forde, “The Work of Christ,” in *Christian Dogmatics* 2:5–104.

⁵⁸ Gerhard O. Forde, “Sacraments as Eschatological Gift and Promise,” *Lutheran Quarterly* 31, no. 3 (2017): 310–319.

⁵⁹ Murray, *Law, Life, and the Living God*, 123–132.

⁶⁰ Jack D. Kilcrease, “The Self-Donation of God: Gerhard Forde and the Question of Atonement in the Lutheran Tradition.” PhD diss., Marquette University, 2009.

⁶¹ Kilcrease, “Gerhard Forde’s Doctrine of the Law,” 151–179.

⁶² Jack D. Kilcrease, “Gerhard Forde’s Theology of Atonement and Justification: A Confessional Lutheran Response,” *Concordia Theological Quarterly* 76, nos. 3–4 (2012): 269–293.

⁶³ Jack D. Kilcrease, *The Self-Donation of God* (Eugene, OR: Wipf & Stock, 2013). For a thorough discussion of Christ suffering under the law in Luther’s theology, see Lienhard, *Luther: Witness to Jesus Christ*, 280–286.

⁶⁴ Jack D. Kilcrease, *The Work of Christ: Revisionist Doctrine and the Confessional Lutheran Response* (Eugene, OR: Wipf & Stock, 2018), esp. 105–170.

⁶⁵ In this issue of CTQ, Nathan Rinne (librarian at Concordia University, St. Paul, MN) takes issue with Hopman’s reading of Luther. See below in this issue, pp. 65–82.

Forde presents his theology as Luther's. Hence, his chapter in the Braaten-Jenson *Christian Dogmatics* is called "Luther's 'Theology of the Cross.'" Paulson, Wengert, Nestingen, and Hopman present Forde's "theology of the cross"⁶⁶ as if it were an acceptable and academically informed interpretation of Luther's theology. They have been so successful that denial of the law's third use has come to be seen as a mark of loyalty to Luther. *Lex semper accusat*, ripped out of context, has come to be revered as incontrovertible truth. Since God forgives without Christ offering himself as a sacrifice under the law—what Paulson calls "the legal scheme"—their theology can be summed up with "God's gift for you," a phrase that exhibits the new "theology of the cross's" confusion of justification with the atonement. For Lutherans, justification is by grace, but atonement came with a high price, which, according to Luther's Small Catechism, is Christ's blood. Put Luther to the side and let the words of the Holy Spirit speak for themselves: "You were ransomed from the futile ways inherited from your forefathers, not with perishable things such as silver or gold, but with the precious blood of Christ, like that of a lamb without blemish or spot" (1 Pet 1:18). Hear also the words of Jesus, "This my blood of the covenant, which is poured out for many" (Matt 26:28).

This new theology could be rectified by understanding the gospel as the proclamation that Christ has both actively and passively fulfilled the law, but this is something that Paulson and the others explicitly reject. Since law does not have a fixed place in God, it does not lay down the framework in which Christ accomplishes his redemptive work. For Paulson, law and gospel are not complementary, and so proclamation of Christ's fulfillment of the law is not the gospel.⁶⁷

In a book review in *National Review*, David French, who is not identified as a theologian, writes, "Christians are familiar with the concepts of justification and sanctification. Justification is the moment when God—through His Son's atoning sacrifice—declares man righteous in His sight. Sanctification is the lifelong process of spirit battling flesh, of the redeemed man's journey to holiness."⁶⁸ In the new "theology of the cross," atonement, justification, and sanctification are reduced to the moment of hearing and believing.

Conclusion

In this world of sin, law comes as accusation to the old Adam within each of us. *Lex semper accusat*, but in Eden this was not so, and in the next world it will not be so. By disregarding the command that was a call to faith, to take God at his word,

⁶⁶ Nestingen, "Speaking of the End to the Law," 169–184.

⁶⁷ Paulson, "A Royal Ass," 271. "Nor is God . . . a being who 'corresponds to Himself' in the end—which is a version of making God into nothing but the eternal Law itself."

⁶⁸ David French, "Charity in an Angry Time," *National Review* 69, no. 22 (2017): 46.

Adam was responsible for turning the law as a description of God's positive relation to man into an accusation that no man but Christ alone could resolve. In Adam, "you shall" became "you shall not."⁶⁹ By Christ's fulfilling the law's requirements and suffering its accusations and penalties in our stead, he returned our perception of the law to its original, pristine condition as a perfect revelation of who God is and how Adam saw it before he transgressed. Christ accomplished what God demanded, and so the law's threats were transformed into gospel. The gospel is nothing else but the proclamation, that by his life and death, Christ absorbed the law into himself. It was not only a formal fulfilling of law, but he transposed the law into a brilliance far beyond what Adam knew. Now the law is christologically fulfilled and defined. So, the third use of the law is not only that believers refrain from moral wrong, but also that they do the works that Christ did. Here, Luther should speak.

Natural man would prefer that there be no law, because he is not able to perform what it demands. The sin that has been committed is the second tyrant, and it brings forth the third, namely, death and damnation. Who could be happy when he is answerable to those three? But now they have been vanquished, the Law is fulfilled by Christ and then also by us who have been endowed by the Holy Spirit. He adds the courage so that we may glory even in our sufferings (Rom. 5:3), and thus the Law is no longer outrageous in its dictates but an agreeable companion. The Law itself indeed is not changed, but we are.⁷⁰

If Christians now love the law, we can take this a step further: Christ does the works of the law in believers. *Simul iustus et peccator* describes our condition. Until we die, we live in two diametrically opposing realities: in one, we are shown our sin, and in the other, we are free from the law's accusations because we are in Christ. Denial of the third use of the law does not in each case translate into a redefinition of God as one who no longer requires the death of Jesus as atonement for sin. But it does allow it. And a denial of the eternal, unchanging nature of the moral law of God (FC SD II 50) demands it.

⁶⁹ See Luther's discussion of the law in Eden in his *Lectures on Genesis* (1535–1545/1544–1554), AE 1:103–110. One should not look to Luther for first, second, and third uses of the law. Yet, he does condemn as equivocation that the law has the same meaning in each case. So he writes, "That the Law before sin is one thing and the Law after sin is something else" (109–110).

⁷⁰ Luther, *Lectures on Isaiah* (1528), AE 16:98–99.