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# Luther on Law, Gospel, and the Third Use of the Law

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ONE OF THE STRANGE ANOMALIES and the ironic tragedies of our day is that within conservative Lutheran theology there should be a struggle over the subject of the Law and Gospel, and, more specifically, over the third use of the Law. Strange and ironic, we say, because the Confessions, especially the Formula of Concord (Articles IV, V, and VI), have really spoken the definitive word on the subject. Because these were matters of serious contention in the troubled period after Luther's death, the framers of the Formula of Concord spelled out very carefully the Reformation position, what it meant to be a subscriber of the Lutheran position on Law and Gospel according to the Augsburg Confession.

Thus we might rightly expect that the theological dust would have remained settled, especially for Missouri. After all it was she that gave the world C. F. W. Walther, the 19th century genius who produced the famous lecture series, later published in book form, on *The Proper Distinction Between Law and Gospel*. He spoke out of a rich background of teaching and pastoral experience; but above all he had benefited on this subject from his assiduous study of Luther's writings, notably the *Galatian Commentary*.

## I.

It was Walther<sup>1</sup> who emphasized anew on the American scene, though his voice was heard in Europe, too, that Law and Gospel stand at opposing poles, diametrically opposite, mutually exclusive, on the matter of a man's justification before God. Here there was no mean, or middle ground, as Luther put it in his *Galatian Commentary*.<sup>2</sup> There could be no compromise between active righteousness, which is by the Law, and passive righteousness, which is by faith through the Gospel. This Christian righteousness, as Luther also calls the latter, is there for faith's acceptance, for imputation to our account before God in heaven, because Christ nailed our transgressions against the Law of God to the tree of the cross (Col. 2, 15). Towards, or for, this righteousness we contribute "nothing at all," says Luther, for Christ "has been made for us wisdom, righteousness, sanctification, and redemption" (1 Cor. 1, 30); and, therefore, "here one notices no sin and feels no terror or remorse of conscience," since "sin cannot happen in this Christian righteousness; for where there is no Law, there cannot be any transgression (Rom. 4, 15)."<sup>3</sup>

This article is the hallmark of Christianity, puts Satan and his accusations down, alone comforts troubled and afflicted consciences, enabling them "to take hold of the promise of grace offered in Christ, that is, this righteousness of faith, this passive or Christian righteousness, . . . this righteousness of Christ and of the Holy Spirit which we do not perform but receive, which we do not have but accept, when God the Father grants it to us through Jesus Christ."<sup>4</sup> This

is so totally vital in the life of the believer individually and of the church corporately that, says Luther, if this "doctrine of justification is lost, the whole of Christian doctrine is lost."<sup>5</sup>

This is the liberty, Paul teaches so eloquently in his Galatian Letter, in which we stand. None understood this better and shared it more convincingly with the world than Luther, who had struggled through the deadening load of Romanist, monastic, legalistic burdens. It was this song which he sang with such delight and such light heart for Leo X, in 1520, to whom he dedicated his famous treatise on *The Freedom of the Christian*.<sup>6</sup> The proposition that "a Christian is a perfectly free lord of all, subject to none," was grounded on God's promised forgiveness in Christ, the passive or imputed righteousness to faith, which brings pardon, endows with the riches of Christ, links the sinner with Christ as bride to bridegroom, and bestows the perfect peace that passes all understanding.

Little wonder that Luther would exult that "the highest art and wisdom of Christians is not to know the Law!"<sup>7</sup> Because in his justification before God the Christian believer stood free in Christ and could, and should, "ignore works and all active righteousness!"<sup>8</sup> The believer's comfort of conscience is that he is pronounced righteous by grace, for Christ's sake, through faith.<sup>9</sup> "Christ is not a lawgiver, but a forgiver of sins and a savior."<sup>10</sup> This is grounded by Luther on Paul's eloquent statement in Galatians 2, 16, where at least six times the apostle, with amazing compactness and invincible argument, nails down the truth that our justification is by faith alone without the works of the Law.

Precisely this was the difference between theology of the cross, *theologia crucis*, and theology of glory, *theologia gloriae*. The first rests on the passive, Christian righteousness; the second on the active, works-righteousness. "A theologian of glory," Luther stated at Heidelberg (1518), in Thesis 21, "calls the bad good and good bad;"<sup>11</sup> in other words, maximizes works and minimizes God's free gift in Christ. It puffs up<sup>12</sup>, swells the pretension of righteousness within the individual, till he has dropsy of the soul<sup>13</sup> and is spiritually inebriated.<sup>14</sup> But while the Law lays down its demands and says, "do this," and "it is never done," it is the office of the Gospel and grace, theology of the cross, to come announcing: "Believe in this one (Christ) and everything is done."<sup>15</sup>

We are as free in Christ, as Peter was from the prison, Jairus' daughter from death's grasp, the young man of Nain from the coffin, as Christ Himself from the tomb. Our release from the Law and its condemnations allows us to exult: O Law, thou canst as little hold me, as the empty tomb could hold my Lord, Christ.<sup>16</sup>

"Thus with the sweetest names Christ is called my Lord, my sin, and my death, in opposition to the Law, sin, and death, even though in fact He is nothing but sheer liberty, righteousness, life, and eternal salvation."<sup>17</sup> Luther was deeply impressed with the utter clarity of Holy Scripture and the apostle Paul's precision of expression on this subject. "Paul guarded his words carefully and spoke precisely . . . For he does not say that Christ became a curse on His

own account, but that He became a curse 'for us.' Thus the whole emphasis is on the phrase 'for us.'"<sup>18</sup> Precisely this is our freedom, true theology of the cross, Christian Gospel, "our highest comfort," says Luther, "for just as Christ is wrapped up in our flesh and blood, so we must know Him to be wrapped up in our sins, our curse, our death, and everything evil."<sup>19</sup> Surely this is purest Gospel, and "Paul presents a powerful argument," states Luther, on the basis of Galatians 3, 13 "against all the righteousness of the flesh," or good works, because his argument "contains this invincible and irrefutable antithesis: If the sins of the entire world are on that one man, Jesus Christ, then they are not on the world. But if they are not on Him, then they are still on the world . . . But if he is innocent and does not carry our sins, then we carry them and shall die and be damned in them. 'But thanks be to God, who gives us the victory through our Lord Jesus Christ! Amen. (I Cor. 15, 57)'"<sup>20</sup> Never was the Gospel set forth in more brilliant light than when Luther showed forth plainly the Scripture's meaning, especially in his *Galatian Commentary*.

## II.

The Gospel cannot, however, do its saving work unless the Law precedes. Scripture teaches two chief uses for the Law, Luther points out; the one is political, the other theological. Under the first we understand the Holy Will of God by which men and nations are ordered, or set in order, for it is God who has ordained civil laws and provides them with their content and sovereignty. Restraint of sin and evil in the sinful, wicked world is the chief purpose served by the Law in this its civil function. But in no way does it follow that, because the Law successfully restrains sin, it can also make men righteous. Just the opposite is the case. By the very fact that it must restrain evil, the Law demonstrates not man's goodness but the depth and extent of his unrighteousness.

The Law's primary function now, however, is spiritual, or theological, as Luther states, "to reveal to man his sin, blindness, misery, wickedness, ignorance, hate and contempt of God, death, hell, judgment, and the well-deserved wrath of God."<sup>21</sup> This is its proper and principal function, in view of man's sinfulness, for God needs to crush and hammer to pieces the opinion or pretension of righteousness which natural man always has within him. There is no other way of getting at this "monster" than by the Law. It is the "hammer of death, the thunder of hell, and the lightning of divine wrath," that can crush the rebellious, stubborn, self-righteous, swollen heart to the point of despair.<sup>22</sup>

That has always been its proper and first function since the Fall. That was its primary purpose already in the Old Testament, at Mt. Sinai, too, Luther points out. There the Israelites stood all "washed, righteous, purified and chaste," but they had to see that none of their domestic, active righteousness or "purity helped them then." In fact, "their sense of impurity, unworthiness, sin, judgment, and wrath of God was so great that they fled from the presence of the Lord and were not able to hear His voice."<sup>23</sup>



So, the existential truth is that unless the hard, adamant wall of presumption and pretension of righteousness be demolished, there is no chance that the preaching of the free remission of sins for Christ's sake can enter the human heart. What happened to the Israelites "is what finally happens to all self-righteous people who are drunk with the presumption of their own righteousness;"<sup>24</sup> God's Law smashes it down and to pieces, and they are driven to the point of despair.

The Law still has this function properly and peculiarly which it had at Sinai. It lays a man's sin and sinful condition right before his eyes and drives him to see, willing or not, the wrath and judgment of God under which he stands.

Luther fears that this true and proper use of the Law will after his time "be obscured again and be completely wiped out."<sup>25</sup> It is not the sects and the heretical liberals, the Neo-Arians, that worry him, Luther says, but "those who want to seem 'evangelical' and who acknowledge the Gospel with us" right at this present time, even before we are gone.<sup>26</sup> Knowing the propensities of the human heart which always leans in the direction of synergism in some form, he raises the question prophetically, "What do you think will happen when we have been taken away?" He foresees the obliterating of the proper distinction between Law and Gospel, and the function each has, the Law to reveal sin, accuse, terrify before the wrath of God—and there to have an end!—and the Gospel to quicken, comfort, raise up fearful hearts, convert and save.

The church will always be troubled by such as "boast and swear that they are intent on nothing except the glory of God and the salvation of the brethren, and that they teach the Word of God purely; but in fact they distort the Word of God and twist it into an alien meaning, so that it is forced to tell them what they themselves imagine," that is, "their own dreams," making the Law do what only the Gospel can do, and the Gospel what only the Law can do.<sup>27</sup>

This rule stands basic to Christian theology: "Unless the Gospel is clearly distinguished from the Law, Christian doctrine cannot be kept sound. But when this distinction is recognized, the true meaning of justification is recognized. Then it is easy to distinguish faith from works, and Christ from Moses, as well as from the magistrate and all civil laws. For everything apart from Christ is a ministry of death for the punishment of the wicked."<sup>28</sup> F. Bente observes correctly that with Articles IV, V, and VI of the Formula of Concord the question at issue is not merely the topics of Law and Gospel and the third use of the Law, but the whole of Christian doctrine, justification and sanctification, repentance and faith, regeneration and renewal, faith and good works.<sup>29</sup>

### III.

Luther steered the ship of the church expertly through the straits between the Scylla of synergism and the Charybdis of anti-nomianism. Only a helmsman who knew well and abided steadfastly by the careful distinction between Law and Gospel could have done

such skillful piloting. It was no easy matter. Subtle synergism has a way of insinuating itself at every corner of Christian doctrine. Frontal attack, on the central article of the Gospel, is hardly ever synergism's way. Luther had to show that even a man like Augustine, the redoubtable hero of the church in its struggle against Pelagianism, did not have the matter of faith and works, or charity, straight. By teaching that faith is formed or adorned by charity, he was confusing Law and Gospel, thus justification and sanctification, and was giving the blessing to and the *raison d'être* for the whole monastic system of discipline. Just the reverse of what Augustine had taught is the truth, Luther insisted upon the basis of Galatians 2, 16; for it is faith that forms or adorns charity. Good works flow out of justifying faith. "Therefore, this gloss (that unless faith is formed and adorned by love, it is nothing) is to be avoided as a hellish poison, and we must conclude with Paul: By faith alone, not by faith formed by love, are we justified."<sup>30</sup> The prepositions, or exclusive particles, tell the story: "This faith justifies *without* love and *before* love."<sup>31</sup>

Luther faced much the same tendency in Melanchthon who insinuated synergistic notions into the doctrine of conversion. The *voluntas non repugnans*, the non-resisting will, which Melanchthon saw as the third efficient cause in man's regeneration, or conversion, was subtle synergism. As long as Luther was alive, his good friend's faulty theology, which really was also a failure to distinguish Law and Gospel correctly, remained subdued. But Melanchthon's views shook the church in the Synergistic Controversy after Luther's death, and it was not finally settled until the Formula of Concord in its articles on original sin (I) and free will (II), laid the un-Scriptural and disturbing teaching to rest.

The antinomians threatened from the other flank, arguing that continuing repentance in believers was worked by the Gospel (so John Agricola), not by the Law, and, as a matter of fact, that the Law was of no further use to the Christian, the truly regenerate, not even as a guide or norm for godly conduct (so Poach and Otto).

That the Law, in its principal, theological function (accusatory) was still valid for Christian believers, the New Testament makes very plain; for example, in the classic passage in Paul's Letter to the Romans, chapter 7. Paul would not write this way, Luther shows, if it were not so, that each Christian, from his own experience, standing under the Law, knew that the old man in him clashes constantly with the new man whom the Spirit animates and prompts. Would Paul be censuring Peter, Luther asks on the basis of Galatians 2, 14, if it were not true that Peter had confused the proper distinction between Law and Gospel?<sup>32</sup>

The Law has its necessary and abiding place in the life of each sinner and the preaching of the church, not because it reconstructs the old man or constructs the new, but because it beats down the old man's pretension of righteousness, and does so incessantly. Upon this old man, as upon an ass, there must be laid the burden of the Law's demands;<sup>33</sup> and this situation never changes, Luther states,

as long as life goes on, not until and when "the new man by faith" is put on in all perfection and "this does not happen fully in this life."<sup>31</sup>

So, also the regenerate man continues to require both the preaching of the law, that the old man may be put down and repentance be worked, and also the preaching of the Gospel, for the working of the forgiveness of sins and faith's acceptance of God's grace. Fail to preach the Law fully, and you fail to prepare the way for the Gospel; you prevent it from taking hold or effect. "This is the theme," states F. Pieper, "which Luther developed and thoroughly presented from many angles in his offensive against Antinomianism."<sup>35</sup> The Gospel cannot be made to do what only the Law can, nor vice versa. "There is a time to hear the Law and a time to despise the Law. There is a time to hear the Gospel and a time to know nothing about the Gospel."<sup>36</sup>

#### IV.

But antinomianism surfaces at another point, viz., in denying that the Law is of any further use to the Christian as regards holiness of living, sanctification, or good works. The Formula of Concord dedicated a separate article (VI) to this notion and gave what should be—at least for Lutherans—the definitive answer: the Law is useful, in the third place, and specifically and alone for regenerate Christians who "have been born anew by the Spirit of God, converted to the Lord, and thus (have) the veil of Moses . . . lifted from them," that "they live and walk in the Law."<sup>37</sup>

On the basis of Rom. 8, 2; 7, 23; and 1 Cor. 9, 21, the Formula recognizes fully that such good works "are not properly works of the Law, but works and fruits of the Spirit," done "from a free, cheerful spirit," but nonetheless works "according to the immutable will of God comprised in the Law."<sup>38</sup> No one can mistake the Formula's meaning in this simple, artless summary:

Although the truly believing are verily moved by God's Spirit, and thus according to the inner man, do God's will from a free spirit, yet it is just the Holy Ghost who uses the written law for instruction with them, by which the truly believing also learn to serve God, not according to their own thoughts, but according to the written Law and Word, which is a sure rule and standard of a godly life and walk, how to order it in accordance with the eternal and immutable will of God."<sup>39</sup>

The framers of the Formula of Concord, it should be remembered, conceived of their task, in the midst of the controversies, to state thetically and antithetically, what it meant to be loyal subscribers of the Augsburg Confession, Lutheran theology's *magna carta*. At Augsburg the Confessors had stated that good works in the believer's life flow out of his justification and are those commanded by God.<sup>40</sup> Lest there be any doubt as to what was in their minds at Augsburg when they spoke about things "commanded by God," the Confessors pointed to the Ten Commandments.<sup>41</sup> In his



Apology to the Augsburg Confession, in article (III) on "Love and the Fulfilling of the Law," Melanchthon spelled out the same truth, that Christian believers in striving after holiness of life live out of the content of the Ten Commandments. Like Luther he stressed the close, inevitable connection, the *nexus indivulsus*, between justification and sanctification, and thus between the Law and the Gospel in the believer's life. To do otherwise would have been to deny the holiness and goodness of the divine will of God. Though Law and Gospel were poles apart on the sinner's justification before God; absolutely divergent; separated from each other further than opposites, to use Luther's figure; accomplishing absolutely different things—even in his sanctification of life the believer lives out of the power of the Gospel, not the Law!—yet they were to be taught side by side in the church and by the church to the end of time.

Luther repeated over and over again that his emphasis on justification by faith alone never meant a lessening of emphasis on the quest for holiness in the believer's life. One can only be struck by the frequency with which he states this. New obedience, or good works which are according to the Law of God, flows freely and spontaneously, not by compulsion or necessity of coercion, out of the faith of the regenerate man. Such works are fruits of the Spirit, not fruits of the Law, though the Holy Spirit bestows those things which the Law demands. They are not extorted or pressed out by the Law's demands, but are given or done gladly, with spontaneous consent, because that is the way faith responds under grace. So, as we travel this "royal road," rejecting both "those on the right who want to be justified through the Law, and those on the left, who want to be altogether free of the Law," it is necessary, says Luther, "that we neither reject the Law altogether, nor attribute more to it than we should."<sup>42</sup>

It is significant that Luther, commenting on Galatians 2, 16—certainly the Rock of Gibraltar on justification *sola gratia/fide*, without the works of the Law!—also adds (as he so often does in similar situations, lest the close *nexus indivulsus* between justification and sanctification be lost):

"We concede that good works and love must also be taught; but this must be in its proper time and place, that is, when the question has to do with works, apart from this chief doctrine (that faith justifies *without* love and *before* love)."<sup>43</sup>

"When the question has to do with works," then what? There can be no question that Luther rules out the return of the believer under the Law, under its coercive demands, because he stands in the freedom with which Christ has made him free. The new man is spiritual and is moved by the Spirit, as Paul teaches in Romans 7; and the victorious reign of the Gospel always presupposes the vanquished, or decreasing, reign of the Law in the believer's life, as he strives more and more by the power of the Spirit to mortify the flesh and perform that which is godly. Though this life of good works and sanctification is never perfect, nor auxiliary or supplemental to his justification, yet the man who has been clothed upon by the



*iustitia Dei*, that is, dressed by God in Christ's righteousness, strives manfully to live after the Spirit and not in the fleshly manner to which his old Adam constantly drags him.

Faith in the justified sinner changes everything, for it is a divine work and "is a living, busy, active, powerful thing," states Luther, "so that it is impossible for it not to do good without ceasing."<sup>44</sup> The Formula of Concord quotes these words of the Reformer, in order to show the inevitable and spontaneous outpouring of good works in the Christian's life. But according to what standard? A self-chosen one, prompted by personal criteria? Even so-called "freedom in the Gospel?" Luther would never have bought that answer. The spontaneity of love that flowed out of faith, he never denied. In fact, the new man, were he alone in the Christian believer—but this *never* happens this side of heaven, says Luther!—would need no instruction on how to live or love as little as the loving husband in his pursuit of and devotion to his beloved.<sup>45</sup>

But the continued presence of the old man in us necessitates that the Law of God remain the guide in the Christian's life, also after his justification by grace. Prompted by the Spirit the believer strives to pattern himself in such righteousness of the Law. This righteousness of the Law, states Luther, "we also teach *after* the doctrine of faith."<sup>46</sup> The adverb "after" is the key. A Christian who has the righteousness of Christ (the passive, imputed, alien righteousness) dwelling in his heart is "like the rain that makes the earth fertile."<sup>47</sup> Now a new order prevails, and Luther waxes eloquent in showing how each man in his station, or vocation, strives to be godly in every relationship, duty, and task, "for he knows that God wants this and that this obedience pleases Him."<sup>48</sup>

Luther does not hesitate to say that "when outward duties must be performed, then, whether you are a preacher, a magistrate, a husband, a teacher, a pupil, etc., this is no time to listen to the Gospel. You must listen to the Law and follow your vocation."<sup>49</sup> But this was not a slavish sort of performance. Luther gave a whole new outlook on the matter of vocation in the Christian's life. There was a distinct difference between Luther's position and that of Calvin. Thus while a Lutheran Christian works at his daily task from a center point of joy as a believer who knows that by faith he no longer is under the Law but has a perfect righteousness in Christ, the Reformed Christian works under a heavy feeling of duty as he plods away at his daily assignments for the glory of his sovereign Lord and his own sacrifice of self.<sup>50</sup>

There is no question in Luther's mind that these good works according to each of the Ten Commandments<sup>51</sup>, this laboring to be outwardly righteous<sup>52</sup>, in no way commends or serves our standing as forgiven children before God, *coram Deo*. Only the passive righteousness, Christ's righteousness, imputed to us in faith, could and **does do that!** The true saints of God are not those who do not have and feel no sin<sup>53</sup>—"in fact the more godly a man is, the more he feels the battle!"<sup>54</sup>, for as long as life goes on the "Christian man is both righteous and a sinner," *simul iustus et peccator*<sup>55</sup>—but those

who know and surely believe "that Christ is their wisdom, righteousness, sanctification, and redemption" and who then do their duty, each in his vocation according to the rule of God (*ex praescripto verbi Dei*).<sup>56</sup>

"According to the rule of God's Word!" There is nothing evasive at all about Luther's language. There never was. From the beginning of the Reformation, when first he castigated the papists for enslaving souls under the Law, changing Scripture's teaching on God's grace, exchanging *gratuitus favor Dei propter Christum* for *gratia infusa*, Luther consistently upheld and taught good works and sanctification as the fruit which inevitably flows out of repentance, out of the forgiven sinner's life. Nor did he fail to designate the route which the man who had put on Christ in faith, who moved with the freedom of the Spirit in all his acts and decisions, should travel. The same Law, which Christ by His active and passive obedience had fulfilled for all sinners, was the standard, the *praescriptum*, in which the believer happily, and moved by the Spirit, sought and did his Heavenly Father's will.

The treatise *On Good Works* which Luther wrote in 1520, in close proximity with his more famous *Freedom of the Christian*, fulfilled but one purpose, to show how his article on justification by faith alone, rather than lead to or suggest a libertine spirit, a cheapening of God's gracious gift in Christ, prompted the Christian believer to strive mightily and zealously in God's Holy Law. Not without good reason, therefore, has this treatise been called Protestantism's basic text on Christian ethics. It is a beautiful exposition of the Ten Commandments in the life of a believer.

Naturally, Luther never looks into the commandments without proper and first emphasis on their accusing property; but he also maintains, side by side, their positive validity as guide or norm for the Christian man. He obviously pointed to the Law "after justification," in order that no Christian would opt for his own standard of holiness under the guidance of his flesh, or "ostentatious works that they themselves have invented,"<sup>57</sup> or "mummery of self-chosen works."<sup>58</sup>

Luther's two catechisms proceed in exactly the same way, as does also the Table of Duties which he appends to the Small Catechism.<sup>59</sup> The Christian who sees his sin mirrored in the Law and finds all pretension of his old Adam smashed and hammered down, also delights according to the new man, who is clothed in Christ's righteousness and moved by the indwelling Spirit, to do God's Holy Will. At the close of the commandments in the Large Catechism Luther explains this all with ingenuous simplicity:

Thus, we have the Ten Commandments, a compend of divine doctrine, as to what we are to do in order that our whole life may be pleasing to God, and the true fountain and channel from and in which everything must arise and flow that is to be a good work, so that outside the Ten Commandments, no work or thing can be good or pleasing to God, however great or precious it be in the eyes of the world.<sup>60</sup>

A Christian moves on this basis in life, that he is no longer *under* the Law; that his freedom is in Christ. But, free from the Law's curse and dominion, that same child of God, who is not *under* the Law, finds his delight still and always *in* God's Law, which now according to the new man he sees in an entirely different light. Fruits of the Spirit and fruits of the Law are poles apart, as far as the Law from the Gospel. But all things are new for the man in whom the Spirit of God dwells and works. The Epitome of the Formula of Concord put it this way:

Fruits of the Spirit, however, are the works which the Spirit of God who dwells in the believers works through the regenerate, and which are done by believers so far as they are regenerate, as though they knew no command, threat, or reward; for in this manner the children of God live in the Law and walk according to the Law of God.<sup>61</sup>

Needless to say, when Luther and the Confessions speak of the spiritual use of the Law by believers, they always repeat the connection between justification and sanctification as an inevitable relationship, and that what the regenerate man does in conformity with the Holy Law of God flows out of the power of the Gospel. In fact, there would be no talking of the third use of the Law at all were it not for the Gospel and the sinner's justification through Christ. Empowered by faith and the Gospel, the regenerate sinner walks in the Law of God not as an end in itself, as though under threat and coercion, or in quest for reward, but out of love for God and, simultaneously, out of love for his neighbor, both being fruits of faith worthy of repentance. "These are the exhortations," Luther states, which are so frequently found in the New Testament, "and they are intended to stir up those who have obtained mercy and have been justified already, to be energetic in bringing forth the fruits of the Spirit and of the righteousness given them, to exercise themselves in love and good works."<sup>62</sup>

## V.

The third use of the Law, both as taught in the Lutheran Confessions and in Luther, has experienced serious mishandling in modern theology, also by Lutheran theology's erstwhile friends. Notable scholars like Werner Elert and Gerhard Ebeling have argued that the third use of the Law is foreign to and out of character with Luther's thinking and writing. Ebeling insists that the Law in its twofold sense, *duplex usus legis*, is as far as Luther goes or allows.<sup>63</sup> Elert has devoted a separate monograph to the matter, *Law and Gospel*<sup>64</sup>, besides touching upon the same key points in his larger work, *The Christian Ethos*.<sup>65</sup>

The term "third use of the Law" must be attributed to Melancthon; Luther never used it, Elert argues. With considerable vehemence he contends that the words attributed to Luther, "Thirdly, the law is to be retained so that the saints may know which works God requires," were interpolated into the conclusion of Luther's *Second Disputation Against the Antinomians*, January 13, 1538.<sup>66</sup>



Elert's basic contention is that for Luther, as for Paul, "the moment never arrives in the life of the Christian when the law has nothing more than an informatory significance for him," and that, if understood on that basis, "we shall have to agree with the Scandinavian and Finnish theologians who have pronounced the doctrine of a third use incompatible with the Lutheran understanding of the law and gospel."<sup>67</sup>

Elert's problem is that theologically he is involved in the wrong ball game when he claims that Luther never taught the *usus triplex legis*, and, moreover, without even knowing it, he is not even in the right ball park, when he implies that orthodox Lutheran theology by its contending for the third use of the Law has in fact ever denied or separated the second, accusatory function of the Law, from consideration in the Christian's Life.

Elert is right when he accuses rationalism, Schleiermacher, and his theological descendants, including his antipode, Kierkegaard, with total obliteration of the proper distinction between Law and Gospel. Liberalism held that "the law as well as the Gospel achieved one and the same goal in man, 'moral improvement.'"<sup>68</sup>

Elert is right, too, in criticizing dialectical (chiefly Barthian) theology for:

- asserting that "God's Word spoken in Christ (is) the only Word of God" and failing to take account here of "God's Law (as) the other Word of God."<sup>69</sup>
- teaching that "law and gospel merely designate one and the same act of God, the content of which is always the same."<sup>70</sup>
- supporting Calvin's "view of the Law as the *reigle de bien vivre et justement*"<sup>71</sup> and viewing "the Gospel as but a clearer manifestation of the Law."<sup>72</sup>
- thus hopelessly confusing Law and Gospel, reducing Christ to New Testament lawgiver, and making the Gospel serve the Law, instead of the Law the Gospel.<sup>73</sup>

But Elert fails to note that it was pietism, and not Lutheran orthodox theology, which introduced legalism, moralism, subjectivism, and wrongful "freedom in the Gospel" into the church, all of it being or verging on simple Antinomianism, with denial of the Law's second or accusatory function. F. Bente warns with justice: "The cocoon of antinomianism always bursts into antigospelism."<sup>74</sup>

Elert has the proverbial blinders on against Lutheran theology of the strict, consistent Confessional stance, as do almost all so-called "conservative" European theologians who reacted against the dialectic theologies (Barthian and Lundensian), on the one hand, and against liberalism, on the other. Elert follows the line of his Erlangen forebears who tried to wed *Heilsgeschichte*, saving history, or the Bible's saving, Gospel content, with higher critical methodology of Scripture's text. Like Don Quixote he is fighting an imaginary foe in orthodoxy and holds it guilty on two counts: slavish subservience to the sacred, inerrant text of the Bible, or "the Holy Spirit's book"



(Luther's phrase), and legalistic dependence upon the Law, as though it were a clearer manifestation of the Gospel in Calvin's sense.

The tragedy is that Elert ends up misusing Luther on the subject of the Law and the Gospel, in addition to misjudging Confessional, conservative Lutheran theology. Obsessed with the notion that all who uphold a position in defense of the third use of the Law must be guilty, on the one hand, of Calvinism's sin (see above), and, on the other hand, of obliterating the accusatory and principal function of the Law because of their emphasis also on the informatory function as a guide, Elert simply "reads" Article VI of the Formula of Concord according to his own presuppositional prejudices, drives a difference between Luther and even the early Melanchthon on the subject of the Law's third use, and makes capital of the fact that Luther never used the term "third use."

Whether Luther did, or did not, use the term, can be debated, as implied above. Above all, however, Luther's position does not stand or fall with the *term*. As the Reformer so often stated in connection with word hassles (e.g., "free will" in his dispute with Erasmus), it was *not the term, but the thing termed* which was of the essence and the fulcrum of the argument. So, here, it must be stated against Elert that he closes his eyes arbitrarily against the voluminous evidence in Luther's writings in support of the third use of the Law. Apparently he does so, in order to lay a charge against conservative, Confessional Lutheran theology of being more in line with Melanchthonian and Calvinist thinking on the third use of the Law than with Luther. His accusation has more holes than a sieve.

It does not really lie within the province of this essay to try to probe further through Elert's thinking and motives, nor of those who follow in his train.<sup>75</sup> Nor is that necessary. It is a blind spot which simply occupied his attention. Other notable Luther scholars like Helmut Thielicke,<sup>76</sup> Paul Althaus,<sup>77</sup> and H. H. Kramm<sup>78</sup> plainly assert the opposing view, that the third use of the Law, as expressed in Formula of Concord Article VI, is to be found through all of Luther's writings, early and late in his life.

Opposition to sound Scriptural teaching runs in packs, like wolves, we have to recognize. Seldom does one doctrine of Holy Scripture come under attack without another, or others, being involved simultaneously. Attack on Scripture's authority, inspiration, and inerrancy is hardly ever alone, but drags other articles with it, and vice versa. Thus, conservative theology's concern for Scripture's inviolability on all counts is regularly branded by the opposition as involving also and always a certain reprehensible intellectualism, sterile orthodoxism, legalism, lovelessness, or as Elert tabbed it, reducing the Law to informatory function only. This strategy of attack is all too plain. Actually, the eroding of doctrine begins with the accusers of conservative, Confessional theology!

Lutherans worthy of the name should, of course, make no idle boast of their orthodoxy. It can under certain circumstances become sterile. God, however, will be the judge. Orthodoxy after all is *His*

rightful concern *and expectation*, for He has given us a more sure word of prophecy whereunto we do well to take heed. (2 Pet. 1, 19) The practitioners of the *new look* in Lutheran theology, some of whom have surfaced in Missouri's camp, have the burden of showing that Missouri has not been true to her heritage. From Luther through Chemnitz through the Formula of Concord through Walther, down to our day, there is a line drawn that marks the continuity, loyalty, stability, and vitality, with which God's truth has been defended and proclaimed to the world.

Let Missouri's voice not be silenced. Especially not on the proper distinction between Law and Gospel! If this distinction be lost, then will all of Christian doctrine finally go, and the cocoon of anti-nomianism will have suddenly caught us unawares and burst forth into antigospelism.

### FOOTNOTES

1. Werner Elert states that Walther was almost alone among 19th century Luther-interpreters who correctly caught the Pauline-Lutheran understanding of the distinction between Law and Gospel. cf. *Law and Gospel*, Fortress, Philadelphia, 1967, p. 2.
2. LW 26, 9.
3. *Ibid.*, 8.
4. *Ibid.*, 5f.
5. *Ibid.*, 9.
6. LW 31, 327ff.
7. LW 26, 6.
8. *Ibid.*
9. *Ibid.*, 132.
10. *Ibid.*
11. LW 31, 33.
12. *Ibid.*, 53.
13. *Ibid.*, 54.
14. LW 26, 312.
15. LW 31, 56. Thesis 26 at Heidelberg.
16. LW 26, 157.
17. *Ibid.*, 163.
18. *Ibid.*, 277.
19. *Ibid.*, 278.
20. *Ibid.*, 280.
21. *Ibid.*, 309.
22. *Ibid.*, 310.
23. *Ibid.*, 311.
24. *Ibid.*, 312.
25. *Ibid.*
26. *Ibid.*
27. *Ibid.*
28. *Ibid.*, 313.
29. cf. *Gesetz u. Evangelium*. Concordia, St. Louis, 1917, 3.
30. *Ibid.*, 137.

31. *Ibid.* Luther, of course, never ignored the close connection of faith with works; and so in the very same context adds: "We concede that good works and love must also be taught; but this must be in its proper time and place, that is, when the question has to do with works, apart from this chief doctrine . . . how we are justified and attain eternal life."
32. *Ibid.*, 116.
33. *Ibid.*, 7. 116f. 391.
34. *Ibid.*, 7.
35. *Christian Dogmatics*. Concordia, St. Louis, 1953, III, 236.
36. *LW* 26, 117.
37. *FC* VI, 1.
38. *Ibid.*, 17.
39. *Ibid.*, 3. cf. *Epitome* VI, 1.
40. *AC* VI, 1.
41. *AC* XX, 2.
42. *LW* 26, 343.
43. *Ibid.*, 137.
44. *FC* IV, 10.
45. cf. *Treatise on Good Works*. *LW* 44, 27.
46. *LW* 26, 4.
47. *Ibid.*, 11.
48. *Ibid.*, 12.
49. *Ibid.*, 117.
50. cf. Einar Billing, *Our Calling*. Augustana Press, 1955, 9-15.
51. *LW* 26, 133.
52. *LW* 27, 72.
53. *Ibid.*, 74ff.
54. *Ibid.*, 74.
55. *LW* 26, 232.
56. *LW* 27, 82.
57. *Ibid.*, 53.
58. *LW* 26, 215.
59. cf. also Hymn No. 287 in the Lutheran Hymnal. Some have argued that the English translation does not accurately catch Luther's meaning and that it has nothing to do with the third use of the Law. Allowing that something is probably lost in translation, we still have Luther's meaning safely in hand in our English version.
60. *LC*, 311.
61. *FC*, *Epit.*, VI, 5.
62. *Bondage of the Will*, Packer-Johnston trans., Revell, Westwood, N.J., 1957, 180.
63. cf. Gerhard Ebeling, *Word and Faith*. SCM Press, London, 1963, 62.
64. Fortress Press, Philadelphia, 1967.
65. Muhlenberg, Philadelphia, 1957.
66. W. Elert, *Law and Gospel*, 38. cf. also his article in *Zeitschrift fuer Religions- und Geistesgeschichte*, 1948, 168-70.
67. *Ibid.*, 42f.
68. *Ibid.*, 2.
69. *Ibid.*, 4.
70. *Ibid.*, 5.
71. *Ibid.*, 45.
72. *Ibid.*, 47.
73. *Ibid.*, 48.
74. *Triglot Concordia*. Concordia, St. Louis, 1921, 161.

*Currents in Theology and Mission*, Semine's new "CTM," vol. I, No. 1, Aug. 1974, is a case in point. "Is the Law a Guide for Good Works?" the pilot article asks. It is a page out of Elert's book, setting Luther against Melancthon, the Formula of Concord really against itself (and against Missouri's and Walther's theology), and, what is more timely, "moderates" in Missouri against conservatives. On the last score the article is probably right. There is a problem in Missouri. This essay presents a strange, pietistic, idealistic bifurcation of the Christian, as though he were not sinner and saint in the same skin at the same time, a person who finds the old and new man within him in constant tension. It fails to observe what Luther and the Confessions make very plain, that the Christian man, because of the continued inherence of the old Adam, requires the guidance of the Law in sanctification and good works, lest he follow after a self-appointed program of holiness. Accordingly, the article simply concludes on the note "that the bald statement that the Law serves as a guide and norm for the good works of the Christian strikes a note that is not in harmony with FC VI and with Luther's other (sic?) writings." (p. 9) To imply, as the article does, that conservatives are legalists *ipso facto* because they support the third use of the Law is a palpable dodge. The question appears to be rather whether the vaunted "freedom of the Gospel" is not a cover-up for antinomianism, which has always moved with a subjective, pietistic freedom from the objective Word of God as given in Holy Writ. That's the story which history writes so plainly, and Missouri's concern, expressed at New Orleans, is that the cocoon of antinomianism will open up to antigospelism.

*Theological Ethics*, vol. I. Fortress, Philadelphia, 1966, 134f.

*The Theology of Martin Luther*. Fortress, Philadelphia, 1966, 272. Althaus is not always consistent. In his *The Divine Command* he states: "We find it impossible to retain this concept." (p. 45)

*The Theology of Martin Luther*. James Clarke & Co., London, 1947, 61.